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2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 TRIARCH ARCHITECTURAL SERVICES, P.C.,

6 Plaintiff,

7 -against-

8 MEDALLION INC., VLADIMIR VORONCHENKO,

9 and GARTH HAYDEN ARCHITECT,

10 Defendants.

11 -----X

12 May 23, 2012

13 10:12 a.m.

14

15 DEPOSITION of GARTH HAYDEN, taken by  
16 the Plaintiff, at the law offices of  
17 MANDEL BHANDARI, LLP, 11 Broadway, New York,  
18 New York, before Vicky Galitsis a Shorthand  
19 Reporter and Notary Public within and for  
20 the State of New York.

21

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24 GREENHOUSE REPORTING, INC.  
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New York, New York 10001  
25 (212) 279-5108

<p style="text-align: right;">Page 2</p> <p>1 2 APPEARANCES: 3 4 MANDEL BHANDARI, LLP 5 Attorneys for the Plaintiff 6 11 Broadway 7 New York, New York 10004 8 BY: EVAN MANDEL, ESQ. 9 10 11 GOGICK, BYRNE &amp; O'NEILL, LLP 12 Attorneys for the Defendant 13 Garth Hayden Architect 14 11 Broadway 15 New York, New York 10004 16 BY: ALBERT WESLEY MCKEE, ESQ. 17 18 19 SAM P. ISRAEL, ESQ. 20 Attorney for the Defendant Medallion, Inc. 21 One Liberty Plaza, 23rd Floor 22 New York, New York 10006 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 G. Hayden 2 GARTH HAYDEN, 3 stating an address of 250 West 57th 4 Street, Suite 2016, New York, New York 5 having been first duly sworn by a 6 Notary Public of the State of New 7 York, was examined and testified 8 as follows: 9 EXAMINATION BY 10 MR. MANDEL: 11 Q. Good morning, Mr. Hayden. 12 A. Good morning. 13 Q. My name is Evan Mandel. I 14 represent the Plaintiff Triarch in this case. 15 Have you ever been deposed 16 before? 17 A. We've had one lawsuit before, 18 yes. 19 Q. Were you deposed in that lawsuit? 20 A. Yes, I was. 21 Q. Well, I'll just go over the 22 ground rules again just to make sure we're on 23 the same page. 24 You're entitled to take a break 25 at any time you would like to take a break.</p>
<p style="text-align: right;">Page 3</p> <p>1 2 STIPULATIONS 3 IT IS HEREBY STIPULATED AND AGREED, 4 by and between the attorneys for the 5 respective parties hereto, that all 6 objections, except as to form, shall be 7 reserved to the time of trial. 8 IT IS FURTHER STIPULATED AND AGREED 9 that the sealing and filing of the within 10 deposition are hereby waived. 11 IT IS FURTHER STIPULATED AND AGREED 12 that the within deposition may be 13 subscribed and sworn to by the witness 14 being examined before a Notary Public 15 other than the Notary Public before whom 16 this deposition was begun. 17 18 -o0o- 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 G. Hayden 2 So if you would like to take a break, just say 3 so. One exception to that is if I just asked 4 you a question, I would ask that you respond 5 to the pending question and then you can take 6 your break. 7 Second, it is very important that 8 all of your answers be spoken. The court 9 reporter can't take down nods of the head or 10 shaking of the head. So it is important that 11 you use words to respond to the questions. 12 A. Okay. 13 Q. It is important we try not to 14 speak over each other, because that makes the 15 court reporter's job very difficult to try to 16 take down all of the testimony and questions. 17 A. Sure. 18 Q. And finally, I'm going to assume 19 you understand my questions. If at any time 20 you don't understand one of my questions, you 21 should go ahead and say so. 22 A. Okay. 23 Q. Do you have any questions about 24 the grounds rules? 25 A. No.</p>

2 (Pages 2 to 5)

<p style="text-align: right;">Page 6</p> <p>1 G. Hayden</p> <p>2 Q. And you understand you're under</p> <p>3 oath?</p> <p>4 A. Yes, I do.</p> <p>5 Q. Mr. Hayden, I would like you to</p> <p>6 pretend for a moment the jury were sitting</p> <p>7 here in this room today, and I would like you</p> <p>8 to explain to me exactly what you would say to</p> <p>9 the jury in articulating your side of the</p> <p>10 story in this case.</p> <p>11 MR. McKEE: Objection. If you</p> <p>12 can possibly answer that question, you</p> <p>13 can, but --</p> <p>14 A. I thought you were not supposed</p> <p>15 to talk to the jury, in general.</p> <p>16 MR. McKEE: If you understand the</p> <p>17 question you can try to answer it, but</p> <p>18 it is not really a question. You're</p> <p>19 asking him to make a statement.</p> <p>20 Q. You may answer.</p> <p>21 A. Well, I thought I did. In fact,</p> <p>22 we're not going to discuss with the jury, it's</p> <p>23 not going to be talking to you. So what I</p> <p>24 would tell the jury about what -- who I am,</p> <p>25 what am I going to tell them about what?</p>	<p style="text-align: right;">Page 8</p> <p>1 G. Hayden</p> <p>2 Q. There may be times today where I</p> <p>3 misstate something you said. It is</p> <p>4 unintentionally, and you should absolutely</p> <p>5 correct me. And you're exactly right, you</p> <p>6 didn't say this case, you said, this project.</p> <p>7 When you said your conduct in</p> <p>8 this project was similar to your conduct --</p> <p>9 A. Why are you calling it conduct?</p> <p>10 We have a relationship with clients, like you</p> <p>11 have with clients. You have a contract, you</p> <p>12 abide with the contract. It is not a conduct.</p> <p>13 There is no conduct. They're architects,</p> <p>14 they're architects. They do what they do.</p> <p>15 There is no conduct, no conduct. I don't have</p> <p>16 a misconduct. Why would I do that as an</p> <p>17 architect? We don't do stuff like that.</p> <p>18 You can take a project, you take</p> <p>19 it seriously. It is a matter of fact that, I</p> <p>20 don't know if you're aware of my office, and</p> <p>21 what we do for a living, and you're not --</p> <p>22 that's not a problem. We ground out buildings</p> <p>23 throughout the boroughs, millions of dollars</p> <p>24 in my office. So what conduct are you</p> <p>25 referring to? I may ask you what conduct.</p>
<p style="text-align: right;">Page 7</p> <p>1 G. Hayden</p> <p>2 My side of the story -- I know</p> <p>3 there are two sides of the story. My side of</p> <p>4 the story is not really the story, it's</p> <p>5 reality.</p> <p>6 Q. What is your reality in this</p> <p>7 case?</p> <p>8 A. Okay.</p> <p>9 MR. McKEE: Objection.</p> <p>10 A. I'm an architect, you know,</p> <p>11 that's hired by a client to do a project. I</p> <p>12 did it. That's the truth. Like any other</p> <p>13 projects, you know.</p> <p>14 Q. And when you say the project,</p> <p>15 you're referring to the project at 515 Park</p> <p>16 Avenue, is that correct?</p> <p>17 A. Right, sure.</p> <p>18 Q. When you say this case was just</p> <p>19 like every other case, do you mean that your</p> <p>20 conduct --</p> <p>21 A. I didn't say case, I said this</p> <p>22 project is like every other project. You get</p> <p>23 a project, you deliver it.</p> <p>24 Q. Thank you for that correction.</p> <p>25 A. No problem.</p>	<p style="text-align: right;">Page 9</p> <p>1 G. Hayden</p> <p>2 Q. Sure. You understand you've been</p> <p>3 sued for copyright infringement in this case?</p> <p>4 A. You call it copyright. Call it</p> <p>5 whatever you want. I've been sued practically</p> <p>6 for no reason, but that's fine. Okay, I'm</p> <p>7 here to respond to your lawsuit.</p> <p>8 Q. Okay, and you understand that</p> <p>9 that lawsuit is a copyright infringement</p> <p>10 lawsuit?</p> <p>11 A. It is not a copyright, but as far</p> <p>12 as I'm seeing, you're calling it that.</p> <p>13 Q. Okay. So your testimony is that</p> <p>14 you did not commit copyright infringement?</p> <p>15 A. Absolutely not. Not even close.</p> <p>16 I don't even know what you're talking,</p> <p>17 copyright, what copyright? Do you know how</p> <p>18 many people copy my drawings, my concepts, my</p> <p>19 ideas? Have a nice day. It is freedom.</p> <p>20 I do not copy. I don't copy your</p> <p>21 tie, I don't copy your shirt. I copy my brain</p> <p>22 power, which there is plenty of that. I don't</p> <p>23 need you to copy you. That's the bottom line.</p> <p>24 If you're saying I copied these</p> <p>25 people, excuse me, prove me. Show me what I</p>

3 (Pages 6 to 9)

<p style="text-align: right;">Page 10</p> <p>1 G. Hayden  2 copied. Maybe I copied not knowing, maybe I  3 can do many buildings in one minute. I can do  4 lots of things in one second. I didn't mean  5 to copy, okay?  6 I was a professor in a school, I  7 don't need to copy. I know when students  8 copy, and I detect it very quickly. So tell  9 me I copied. I don't copy. You want to call  10 it copy? It is copy. Fine. We copied. It  11 is great. Good job. We copy, right?  12 Q. While working on this project did  13 you copy anyone's drawings?  14 A. I did not copy anybody's  15 drawings. I reflected an intention of a  16 designer into what we call construction  17 documents so it can be built, that's what I  18 do. If somebody comes to you and says, okay  19 fine, here's a design by Dell for a computer,  20 we can build them a sketch. Can you make that  21 a reality for me so I can build it?  22 It can be a computer, it could be  23 a spider car, it could be an airplane,  24 whatever you want. You say, this is how I  25 want it to look like. You give me your</p>	<p style="text-align: right;">Page 12</p> <p>1 G. Hayden  2 pretty good, and suspended light color. That  3 finishes very quickly, very quick to  4 recognize, okay?  5 When you have a sophisticated  6 apartment, okay, that finished schedule needs  7 to be the designed by someone who is going to  8 live with that concept as an interior  9 decorator and designer, unrelated to the  10 architect. Totally unrelated. But in  11 essence, at the end of the day, these two  12 concepts need to mesh so that the  13 architectural and the interior design end or  14 result in a look that's in your mind. You're  15 the client, that's what you want. You're an  16 architect and you hire an interior designer.  17 Only sophisticated architects do  18 this. They have architects and interior  19 decorators and designers. And I have a  20 situation now at 1111 Park similar, 1133 Park  21 similar. And that's what we do. If there is  22 interior decorator I'm not going to throw him  23 out. But the interior designer/decorator is  24 not the architect. It cannot be the interior  25 designer and the architect, that's the</p>
<p style="text-align: right;">Page 11</p> <p>1 G. Hayden  2 sketch, I can make it happen for you, okay, if  3 you want me to.  4 Q. That's what you did in this case?  5 A. No, that's what I was asked to do  6 in this case.  7 Q. Okay. What were you asked to do  8 in this case?  9 MR. McKEE: Project.  10 A. A project that talks about, first  11 of all, I designed the apartment. I don't  12 know if you are aware of that. Then there are  13 two sides to the story, as you say.  14 Q. What's your side of the story?  15 A. No, no, that's not what I meant.  16 There are two steps to completion of an  17 architectural design document. First step is  18 the architect's layout, the precise locations  19 of walls, cabinets, doors, the finished floor,  20 the ceiling, closets, bathroom, that's the  21 architect.  22 Then the second step comes in.  23 How many walls do you see in this room; they  24 are all painted the same color; you have  25 suspended ceiling of 2 by 4, okay? That's</p>	<p style="text-align: right;">Page 13</p> <p>1 G. Hayden  2 conflict.  3 But the architect and interior  4 designer is very similar to the architect,  5 structural engineers, mechanical engineers,  6 HVAC engineers, and electrical engineers.  7 They are separate entities, all professionals,  8 they can work together, interior designers as  9 well.  10 Architect, architect, architect,  11 architect, the answer is no. It doesn't work  12 like that. It is not permitted, it is not  13 allowed, not in my office anyway. If you're  14 an architect stay out. If you're an interior  15 designer come to me and I'll pay you. I will  16 hire you. If you have an engineer we'll bring  17 you in. If you are another architect you're  18 not welcome.  19 So the bottom line is we do not  20 work with other architects. I refuse to work  21 with an architect. That's includes Charles  22 Gwathmey, and even, and even, and even Richard  23 Meyer. I do not work with other architects.  24 No matter how powerful and amazing they are,  25 they are not going to touch my stuff, and vice</p>

4 (Pages 10 to 13)

<p style="text-align: right;">Page 14</p> <p>1 G. Hayden  2 versa. That's their office and that's my  3 office. And we have studied separate. I am  4 not interested in your concept, and you're not  5 interested in mine, so stay out and I'll stay  6 out. If you're an interior designer, you're  7 very welcome.  8 The concept is so different. You  9 have no clue, okay. You don't have any clue,  10 okay? You're not expected to have any clue.  11 But the truth is, this is a huge insult. You  12 see, an architect and an architect from  13 different offices can collaborate on this?  14 Yeah, maybe. Maybe Frank Gehry can  15 collaborate with another architect, he can do  16 working drawings, that's feasible, right. But  17 not me, you don't look at me for this.  18 Interior designers, different story.  19 If that's understood by now, I  20 think you'll have a full understanding as to  21 what you do realize that interior designers  22 are welcome in my office and another architect  23 is not. Is not. Okay? No references, no  24 names, no plans, no drawings, no nothing is  25 welcome in my office by another architect. It</p>	<p style="text-align: right;">Page 16</p> <p>1 G. Hayden  2 they can do. Working drawings like architects  3 can do, it is just not going to happen any day  4 soon, okay, it is just not going happen.  5 For a client to come to you and  6 say, okay, fine, here's a sketch from an  7 interior designer, can you make this happen  8 for me? What are you going to say, no? And  9 if your client has an architect, besides you,  10 who's going to need you? What do they need  11 you for? You understand? What does he need  12 you for?  13 Q. Have you ever worked with another  14 architect?  15 A. On the same project?  16 Q. Yes.  17 A. Not really, no.  18 Q. You can't think of any instance  19 which that occurred?  20 A. No, not really, no. I've worked  21 for other architects, yes. I worked for other  22 architects, yes. I did work with other  23 architects, I worked for other architects, but  24 did I ever work on the same -- if you're my  25 client, okay, no problem, I have Charles</p>
<p style="text-align: right;">Page 15</p> <p>1 G. Hayden  2 just does not exist in my book. Not because I  3 have a better understanding of architecture.  4 I used to be a professor, don't tell me what  5 to do. Bottom line.  6 But if you do have an interior  7 decorator and you like what you see and you  8 want me to reflect it on my document so he can  9 build it, fine, fine. That's what we do. We  10 can facilitate that approach for you.  11 And I mentioned as an example,  12 sketch an airplane for me and give it to me  13 tomorrow morning, or a boat, and I'll design  14 it, I'll make it possible for you. How would  15 I do that? By doing the working drawing so it  16 can, in fact, be built by a craftsman, right?  17 Interior designers have no  18 ability to do this. They do not have the  19 ability to create what we call construction  20 detailed documents. They cannot do this.  21 They are not trained. Listen, I'm an ASID  22 member. They're not trained. They're not  23 trained. Even though the ASID or NCIDQ or  24 whatever, they try to train these interior  25 designers, and in a philosophic approach that</p>	<p style="text-align: right;">Page 17</p> <p>1 G. Hayden  2 Gwathmey, and I have you, would you work with  3 them? And I said, no, no thanks. They can  4 choose. Can you do that? But if Charlie  5 comes to you and says to me, can you help me,  6 I'll say sure, why not, that's different.  7 That's different. Okay.  8 That's very different for a  9 client to come and say, I got this work with  10 this architect, who the hell are you telling  11 me to work for? You can take your contract  12 some place else, no. That's not what lawyers  13 do to collaborate. We don't do this. You  14 don't understand, it is very private, this is  15 very, very serious and very private. We don't  16 do that. We just don't do that, okay?  17 (Mr. Sam Israel arrives at 10:27  18 a.m.)  19 Q. Did you work with any other  20 architects on this project?  21 A. No, no, definitely not.  22 Q. Earlier you testified that some  23 of your drawings reflected an intention of a  24 designer, is that correct?  25 A. That's absolutely right.</p>

5 (Pages 14 to 17)

<p style="text-align: right;">Page 18</p> <p>1 G. Hayden</p> <p>2 Q. Which designer is that?</p> <p>3 A. His name is Pepe. His documents</p> <p>4 were sent to me and that's it. His drawings</p> <p>5 come to me. His name is Pepe, I don't know</p> <p>6 his first name. I only met him once.</p> <p>7 Q. Do you know whether Pepe is his</p> <p>8 first name?</p> <p>9 A. No, I do not.</p> <p>10 Q. Have you ever heard the name Pepe</p> <p>11 Calderon?</p> <p>12 A. Yes, as a matter of fact, yes.</p> <p>13 Pepe is his first name then, right?</p> <p>14 Q. So the designer whose intention</p> <p>15 you were reflecting in your drawings is Pepe</p> <p>16 Calderon?</p> <p>17 A. Yes, yes, that is correct.</p> <p>18 Q. And did Mr. Calderon provide you</p> <p>19 with his design?</p> <p>20 A. Yes, yes.</p> <p>21 Q. How did he transmit that design</p> <p>22 to you?</p> <p>23 A. He came to my office personally,</p> <p>24 sat in a conference room, presented the</p> <p>25 documents, and he had an assistant. Then I</p>	<p style="text-align: right;">Page 20</p> <p>1 G. Hayden</p> <p>2 So this is what we do. You look</p> <p>3 on the computer screen, and make a</p> <p>4 determination if something is still not</p> <p>5 acceptable, is still loose. Confirm it. If</p> <p>6 it doesn't get confirmed, then elaborate on</p> <p>7 your own, just do it. Get as close to these</p> <p>8 drawings as you could, because the intent is</p> <p>9 to follow the intent of that design, whatever</p> <p>10 that design suggests to you.</p> <p>11 I gave an example of a computer,</p> <p>12 an airplane. You're watching this problem,</p> <p>13 you have no clue what you're looking at. See</p> <p>14 this bottle, you can't have no clue what</p> <p>15 you're looking at. How the designers can see</p> <p>16 it, how many angles there is, what the cap is,</p> <p>17 what color it is, okay? If you say design me</p> <p>18 a bottle, okay, give me freedom, fine.</p> <p>19 Design me a bottle that's</p> <p>20 7 inches tall, two and a half inches wide and</p> <p>21 it has four angles, then you got a different</p> <p>22 story. This is what you do when you get those</p> <p>23 documents from an interior designer with</p> <p>24 intent, you follow the intent. If you follow</p> <p>25 the intent the results are reflected properly.</p>
<p style="text-align: right;">Page 19</p> <p>1 G. Hayden</p> <p>2 was told he was going back to Florida as soon</p> <p>3 as possible. And I said, okay, if you go to</p> <p>4 Florida, you can send me an e-mail to me, you</p> <p>5 can fax it, whatever you want. Whatever</p> <p>6 you're going leave here is fine. If that's</p> <p>7 not the whole story just e-mail it. And he</p> <p>8 e-mailed it, then faxed it. And it was like</p> <p>9 four, five sheets, 8-1/2 by 11 not very clear,</p> <p>10 but that's it. That's what I got.</p> <p>11 And then he e-mailed AutoCAD</p> <p>12 drawings, an AutoCAD set of drawings, and that</p> <p>13 we put in our computer. That makes it a</p> <p>14 little easier to cross reference, you know,</p> <p>15 certain aspects and see that is pretty much</p> <p>16 what the design intent is all about.</p> <p>17 There's always an intent to</p> <p>18 produce a document. The design is to be clear</p> <p>19 and very specific. You may be providing a set</p> <p>20 of working drawings for construction purposes</p> <p>21 to be filed with buildings departments, as</p> <p>22 well for the building department for the</p> <p>23 construction and all of that. The intent has</p> <p>24 to be very clear, and it has to be very much</p> <p>25 emphasized.</p>	<p style="text-align: right;">Page 21</p> <p>1 G. Hayden</p> <p>2 If not, you're wasting your time and your</p> <p>3 client's money. Because he does not follow</p> <p>4 the intent of the design documents that were</p> <p>5 given to you and you're asked to do.</p> <p>6 We're not a robot, but again</p> <p>7 you're the architect, right? You're supposed</p> <p>8 to build what your client wants you to build.</p> <p>9 If the client says to you, hey, listen this is</p> <p>10 what I want you to do, can you do that for me?</p> <p>11 And the answer is yes, and that's exactly what</p> <p>12 we did. Took the intent from the design</p> <p>13 documents and reflected it in the working</p> <p>14 drawings, went to the job site. And guess</p> <p>15 what? We built it, just like the designer</p> <p>16 designed it to look like. That's what we do,</p> <p>17 okay? Anything less than that is misleading.</p> <p>18 It's not what you're supposed to do.</p> <p>19 Q. When a client has a designer</p> <p>20 provide you with a design, and you prepare</p> <p>21 construction drawings, is it your goal for the</p> <p>22 construction drawings to match the design as</p> <p>23 closely as possible?</p> <p>24 A. That's what we're hired to do.</p> <p>25 Q. So it's yes?</p>

6 (Pages 18 to 21)

<p style="text-align: right;">Page 22</p> <p>1 G. Hayden</p> <p>2 A. Yes, it is a big yes, big yes,</p> <p>3 huge yes.</p> <p>4 Q. In this case when Mr. Calderon</p> <p>5 provided you with designs, did you follow</p> <p>6 those designs as closely as possible when</p> <p>7 preparing the construction drawings?</p> <p>8 MR. ISRAEL: Objection, note my</p> <p>9 objection. You can answer.</p> <p>10 A. Yes, I did.</p> <p>11 Q. Am I correct that earlier you</p> <p>12 testified that when a designer provides you</p> <p>13 with designs those designs have to be clear</p> <p>14 and specific?</p> <p>15 MR. ISRAEL: Objection.</p> <p>16 MR. McKEE: Objection. I don't</p> <p>17 know whether he said that.</p> <p>18 Q. I'm asking him. Did you testify</p> <p>19 earlier that when a designer provides you with</p> <p>20 designs they should be clear and specific?</p> <p>21 MR. ISRAEL: Same objection.</p> <p>22 A. As much as possible. You're not</p> <p>23 going to question the integrity of the</p> <p>24 designer in a way, oh, wait a minute, your</p> <p>25 design drawings are horrible, or they're not</p>	<p style="text-align: right;">Page 24</p> <p>1 G. Hayden</p> <p>2 that Mr. Calderon provided to you clear?</p> <p>3 A. Yes, as clear as they can. I</p> <p>4 would like to assume that they are.</p> <p>5 Q. In this case were designs that</p> <p>6 Mr. Calderon provided to you specific?</p> <p>7 A. Very specific, yeah, pretty</p> <p>8 close, yeah.</p> <p>9 Q. After Mr. Calderon provided you</p> <p>10 with those designs, did you have to go back to</p> <p>11 Mr. Calderon for any additional specifics?</p> <p>12 MR. ISRAEL: Objection.</p> <p>13 A. I never heard from him again. He</p> <p>14 was gone. Vanished, finished, gone, no more.</p> <p>15 What happened? I couldn't care less what</p> <p>16 happened. Why do I care what happened? This</p> <p>17 is what the client wants, he gave it to me,</p> <p>18 the drawings are done. What happened? It is</p> <p>19 not my job to know what happened between the</p> <p>20 two people.</p> <p>21 Q. Did you ever ask what happened to</p> <p>22 Mr. Calderon?</p> <p>23 A. Not really.</p> <p>24 MR. McKEE: Let him get his</p> <p>25 question out before you start.</p>
<p style="text-align: right;">Page 23</p> <p>1 G. Hayden</p> <p>2 right or they're just not clear. You do what</p> <p>3 you could.</p> <p>4 I mean, in a way the designer</p> <p>5 specifically said in writing and on a document</p> <p>6 that's his drawings on AutoCAD, that's what he</p> <p>7 wants, okay? Now bronze or stainless steel,</p> <p>8 if you're not telling me what it is, you got</p> <p>9 something else coming. I'm going to ask you</p> <p>10 that. And if you say, wood, and all of</p> <p>11 sudden, oops, what I really wanted was this.</p> <p>12 Then do this, because you can do it once.</p> <p>13 Next time I'm not going to listen to you.</p> <p>14 Next time I'm not going to even talk to you.</p> <p>15 This is what you sent me, and this is what's</p> <p>16 going to happen, and the client is going to be</p> <p>17 paying tons of money for this.</p> <p>18 Now is that what you want, yes or</p> <p>19 no? Once you put it in writing and you send</p> <p>20 me the AutoCAD, I assume that it is. If I</p> <p>21 have a problem with that, I can interpret it.</p> <p>22 I'm not stupid. I don't need you that much,</p> <p>23 okay, you already gave me what you have and</p> <p>24 have a good day. That's it.</p> <p>25 Q. In this case, were the designs</p>	<p style="text-align: right;">Page 25</p> <p>1 G. Hayden</p> <p>2 A. No.</p> <p>3 Q. You have no knowledge of what</p> <p>4 happened to Mr. Calderon?</p> <p>5 MR. ISRAEL: Objection.</p> <p>6 A. All I can say, he went down to</p> <p>7 Florida, that's all I can say. He went back</p> <p>8 where he came from, he went back to Florida.</p> <p>9 Q. Am I correct that the first time</p> <p>10 you met Mr. Calderon is when he visited you in</p> <p>11 your office?</p> <p>12 A. In my office, yes, sir.</p> <p>13 Q. When was that visit?</p> <p>14 A. I can't say, but it was certainly</p> <p>15 before I prepared drawings. My computer can</p> <p>16 answer that. My computer, you look at the</p> <p>17 plans that was sent as an 8-1/2 by 11 sheet,</p> <p>18 the date is on it. That was the date.</p> <p>19 Q. All right. And we'll get to the</p> <p>20 plans a little later today. But sitting here</p> <p>21 right now, do you recall what year it was that</p> <p>22 you met face to face with Mr. Calderon?</p> <p>23 MR. McKEE: Don't guess.</p> <p>24 A. Well, I was going to look. Once</p> <p>25 I look I'll let you know the year.</p>

7 (Pages 22 to 25)



<p style="text-align: right;">Page 26</p> <p>1 G. Hayden</p> <p>2 Q. All right. And other than that</p> <p>3 one face to face meeting in your office with</p> <p>4 Mr. Calderon, did you have any other face to</p> <p>5 face with Mr. Calderon?</p> <p>6 A. No face to face, no.</p> <p>7 Q. Did you ever speak to</p> <p>8 Mr. Calderon on the phone at any time?</p> <p>9 A. No, no, no, never did.</p> <p>10 Q. And am I correct that</p> <p>11 Mr. Calderon's assistant also visited you in</p> <p>12 your office along with Mr. Calderon?</p> <p>13 A. Yes, you are correct.</p> <p>14 Q. It will be very helpful for the</p> <p>15 court reporter if you just let me get the</p> <p>16 questions out. I understand you most likely</p> <p>17 know what I'm about to ask about, but it makes</p> <p>18 her life much easier if you just let me finish</p> <p>19 the question before you answer.</p> <p>20 Do you know what Mr. Calderon's</p> <p>21 assistant's name was?</p> <p>22 A. No, not anymore. I did, but not</p> <p>23 anymore.</p> <p>24 Q. Do you have any employees or</p> <p>25 independent contractors at your office?</p>	<p style="text-align: right;">Page 28</p> <p>1 G. Hayden</p> <p>2 go. After three and a half years she left me</p> <p>3 much in the open. Thank you.</p> <p>4 Q. Are you going to hire someone</p> <p>5 new?</p> <p>6 A. We did.</p> <p>7 Q. You did?</p> <p>8 A. Yes.</p> <p>9 Q. Who did you hire?</p> <p>10 A. Marina.</p> <p>11 MR. McKEE: Objection. Answer</p> <p>12 it.</p> <p>13 A. I hired another architect.</p> <p>14 THE WITNESS: I mean, I don't</p> <p>15 know what he wants.</p> <p>16 Q. What's Marina's last name?</p> <p>17 A. Sassu, S A S S U.</p> <p>18 Q. When did Monica begin working for</p> <p>19 Garth Hayden?</p> <p>20 A. I said three and a half years</p> <p>21 ago. The exact date I wouldn't know, but she</p> <p>22 stayed for almost three and a half years.</p> <p>23 Q. What are Cecilia's</p> <p>24 responsibilities?</p> <p>25 A. Cecilia is the Buildings</p>
<p style="text-align: right;">Page 27</p> <p>1 G. Hayden</p> <p>2 MR. ISRAEL: Objection, you can</p> <p>3 answer.</p> <p>4 A. I have employees, yes.</p> <p>5 Q. And how many employees do you</p> <p>6 have?</p> <p>7 A. I have two.</p> <p>8 Q. What are their names?</p> <p>9 A. Monica and Cecilia.</p> <p>10 Q. What is Monica's last name?</p> <p>11 A. Piatkowski, P I A T K O W S K I.</p> <p>12 Q. What is Cecilia's last name?</p> <p>13 A. Zurita, Z U R I T A.</p> <p>14 Q. Is Monica an architect?</p> <p>15 A. She's trained as an architect,</p> <p>16 does not have a license.</p> <p>17 Q. What are her responsibilities?</p> <p>18 A. Drawings, AutoCAD, she's just</p> <p>19 quit.</p> <p>20 Q. She just quit?</p> <p>21 A. A month ago.</p> <p>22 Q. Why did she quit?</p> <p>23 A. Three and a half years, I guess,</p> <p>24 she needs more experience some place else, so</p> <p>25 she can go somewhere else where she wants to</p>	<p style="text-align: right;">Page 29</p> <p>1 G. Hayden</p> <p>2 Department expert, she files plans, she</p> <p>3 prepares paperwork, gets amendments in,</p> <p>4 whatever. She does the Buildings Department</p> <p>5 filing and procedures.</p> <p>6 Q. Is she an expeditor?</p> <p>7 A. Well, she's not really an</p> <p>8 expeditor. She works for my office and I put</p> <p>9 her in that direction. She's not an</p> <p>10 expeditor, even though she does have that</p> <p>11 card, she does not expedite like expeditors</p> <p>12 do. She works for me.</p> <p>13 Q. Which card does she have?</p> <p>14 A. The Buildings Department ID card.</p> <p>15 Q. And how long has Cecilia been</p> <p>16 working for you?</p> <p>17 A. Ten years, maybe 12.</p> <p>18 Q. She's currently working for you?</p> <p>19 A. Yes.</p> <p>20 Q. When Mr. Calderon came and</p> <p>21 visited you in your office did Monica or</p> <p>22 Cecilia attend that meeting?</p> <p>23 MR. ISRAEL: Objection, you can</p> <p>24 answer.</p> <p>25 A. Monica was there.</p>

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 G. Hayden</p> <p>2 Q. Did you ever speak on the phone</p> <p>3 with Mr. Calderon?</p> <p>4 MR. McKEE: I think you already</p> <p>5 asked this.</p> <p>6 A. No, no, I did not, did not, did</p> <p>7 not.</p> <p>8 (Plaintiff's Exhibit 1, e-mail</p> <p>9 with attachments dated June 5th, 2009,</p> <p>10 from Dragan Tatalovic was marked for</p> <p>11 identification, as of this date.)</p> <p>12 (Plaintiff's Exhibit 2, e-mail</p> <p>13 with attachments dated July 8, 2009,</p> <p>14 from Dragan Tatalovic was marked for</p> <p>15 identification, as of this date.)</p> <p>16 (Plaintiff's Exhibit 3, e-mail</p> <p>17 with attachments dated July 8th, 2009</p> <p>18 from Dragan Tatalovic was marked for</p> <p>19 identification, as of this date.)</p> <p>20 Q. Mr. Hayden, I've just handed you</p> <p>21 what has been marked as Plaintiff's Exhibit 1,</p> <p>22 2, and 3.</p> <p>23 Earlier you testified that you</p> <p>24 were provided with some designs by</p> <p>25 Mr. Calderon, and I just ask if the</p>	<p style="text-align: right;">Page 32</p> <p>1 G. Hayden</p> <p>2 drawings that I saw, these are the drawings</p> <p>3 given to me. These are the drawings that we</p> <p>4 intended to make the apartment look like.</p> <p>5 Q. Did you copy these designs?</p> <p>6 A. I did not copy these designs.</p> <p>7 MR. McKEE: Objection.</p> <p>8 A. I did not copy. I reflect.</p> <p>9 Q. What's the difference between</p> <p>10 copying and reflecting?</p> <p>11 MR. ISRAEL: Objection, you can</p> <p>12 answer. Just one second, give me a</p> <p>13 second to put in an objection when</p> <p>14 you're answering. Go ahead.</p> <p>15 A. Copying is tracing. Tracing is</p> <p>16 copying. Putting in an over layer on this</p> <p>17 drawing and tracing it is copying. Reflecting</p> <p>18 is understanding what the intent is and</p> <p>19 producing a document that makes it possible to</p> <p>20 be built. That's the interpretation of a</p> <p>21 drawing designed by somebody else and produced</p> <p>22 by an architect. Like engineers do. They</p> <p>23 don't copy drawings, they produce engineer's</p> <p>24 documents to reflect the architect's intent.</p> <p>25 Q. I would like to turn your</p>
<p style="text-align: right;">Page 31</p> <p>1 G. Hayden</p> <p>2 attachments to Exhibits 1, 2, and 3 are the</p> <p>3 designs, Mr. Calderon's designs that were</p> <p>4 provided to you?</p> <p>5 MR. McKEE: Take your time to</p> <p>6 look at it. He is looking at Exhibit 1</p> <p>7 of today's date. What's the question?</p> <p>8 He's looking at Exhibit number 1</p> <p>9 right now. Why don't you ask him about</p> <p>10 Exhibit number 1 first.</p> <p>11 A. Yeah, stay with that.</p> <p>12 Q. All right. Earlier you testified</p> <p>13 that Mr. Calderon provided designs to you?</p> <p>14 A. Yes, yes.</p> <p>15 Q. Does Exhibit 1 contain designs</p> <p>16 that Mr. Calderon provided to you?</p> <p>17 A. Yeah, it does, it does.</p> <p>18 Q. Are the designs in Plaintiff's</p> <p>19 Exhibit 1 the designs that when you were</p> <p>20 drafting construction drawings you were</p> <p>21 reflecting an intention of the designs in</p> <p>22 Plaintiff's Exhibit 1?</p> <p>23 MR. ISRAEL: Objection, you can</p> <p>24 answer.</p> <p>25 A. Pretty much, yes. These are the</p>	<p style="text-align: right;">Page 33</p> <p>1 G. Hayden</p> <p>2 attention to the second from last page of</p> <p>3 Plaintiff's Exhibit 1.</p> <p>4 A. Okay.</p> <p>5 Q. Let's just take, for example, the</p> <p>6 four images on this page. Let's take the</p> <p>7 image on the lower left-hand corner of the</p> <p>8 page. If you were to draw an exact replica of</p> <p>9 that image on the lower left-hand page without</p> <p>10 tracing it, you were to just draw another</p> <p>11 image that was identical to that image but you</p> <p>12 didn't trace it, would that be copying that</p> <p>13 image?</p> <p>14 MR. ISRAEL: Objection.</p> <p>15 MR. McKEE: Objection.</p> <p>16 A. No. No, definitely not.</p> <p>17 Q. The only way to copy something is</p> <p>18 to trace it, is that correct?</p> <p>19 MR. ISRAEL: Objection.</p> <p>20 A. Essentially, yeah. Possibly yes,</p> <p>21 yes. If you sit there and trace somebody's</p> <p>22 drawings -- look, it is not right. It's like</p> <p>23 a writer writing a book and all of a sudden</p> <p>24 he's just -- instead of re-writing, instead of</p> <p>25 somehow making a xerox copy, you wrote every</p>

<p style="text-align: right;">Page 34</p> <p>1 G. Hayden</p> <p>2 word on your own. That's obviously -- that's</p> <p>3 the intent, it is there. You don't write</p> <p>4 these things, he did. But in design the</p> <p>5 concept is not the same. I just tried to</p> <p>6 explain it to you as humanly possible, you're</p> <p>7 not seeing it. It is not the same thing,</p> <p>8 okay? It is not the same thing.</p> <p>9 Q. What's your favorite book?</p> <p>10 MR. ISRAEL: Objection.</p> <p>11 A. I don't have favorite books. All</p> <p>12 books are good. Fountainhead would be.</p> <p>13 Q. You like The Fountainhead? So if</p> <p>14 I were to rewrite every single word in The</p> <p>15 Fountainhead from start to finish, but not to</p> <p>16 trace the actual letters of those words, would</p> <p>17 that be copying Fountainhead or not?</p> <p>18 MR. McKEE: Objection.</p> <p>19 MR. ISRAEL: Objection.</p> <p>20 A. You're asking my opinion and you</p> <p>21 just want me to change my mind. I mean, it is</p> <p>22 pretty clear that architects have their own</p> <p>23 rules, and their own minds, they just don't</p> <p>24 need anyone to interfere with that. I really</p> <p>25 mean that. You don't need to do that. The</p>	<p style="text-align: right;">Page 36</p> <p>1 G. Hayden</p> <p>2 MR. McKEE: He's referring to the</p> <p>3 sheet that has a dining room.</p> <p>4 A. The dining room has been given</p> <p>5 this elevation, has been given to me, okay,</p> <p>6 whatever. The living has been given to me.</p> <p>7 Where did you get that? He never</p> <p>8 sent me this, or this, or this, or this, or</p> <p>9 this.</p> <p>10 MR. ISRAEL: Can you identify</p> <p>11 those pages?</p> <p>12 A. Yeah, these are light fixtures</p> <p>13 and burner kits. I don't know the burner kit</p> <p>14 either. I just don't like the fixture, so he</p> <p>15 never sent me that. I never saw this before.</p> <p>16 Q. So am I correct that the last</p> <p>17 seven pages of Plaintiff's Exhibit 2 --</p> <p>18 A. Were never given to me.</p> <p>19 Q. Okay. And those last seven pages</p> <p>20 reflect a burner kit, is that correct?</p> <p>21 MR. ISRAEL: Objection.</p> <p>22 MR. McKEE: A burner kit.</p> <p>23 A. A burner kit is a light fixture.</p> <p>24 I never seen this before. It is a recessed</p> <p>25 light fixture. It is ugly too. I've never</p>
<p style="text-align: right;">Page 35</p> <p>1 G. Hayden</p> <p>2 point is, when you have an interior designer,</p> <p>3 as we said earlier, preparing a set of</p> <p>4 drawings from an interior perspective the</p> <p>5 client wants that, you have to reflect that in</p> <p>6 your drawings. Otherwise it is not going to</p> <p>7 be built in accordance with the design intent,</p> <p>8 and that means you don't do the job.</p> <p>9 Is this what you want? I should</p> <p>10 not have done my job to reflect the intent of</p> <p>11 a client on your documents. There is no sin</p> <p>12 there. He designed it the way the client</p> <p>13 wants it. The only way it can be built is the</p> <p>14 way I do it or an architect with some sort of</p> <p>15 experience does it, otherwise it is not going</p> <p>16 to be built. It is going to get built in a</p> <p>17 haphazard way. It costs more money for me,</p> <p>18 okay?</p> <p>19 Q. Turning your attention to</p> <p>20 Plaintiff's Exhibit 2, were the designs</p> <p>21 contained in Plaintiff's Exhibit 2 Pepe</p> <p>22 Calderon's designs that were provided to you?</p> <p>23 A. Yeah, the answer is, yes. Let me</p> <p>24 just finish the whole package. Yeah, okay. I</p> <p>25 already saw that, it is a repeat.</p>	<p style="text-align: right;">Page 37</p> <p>1 G. Hayden</p> <p>2 seen it.</p> <p>3 Q. However, am I correct that in</p> <p>4 Plaintiff's Exhibit 2, there are ten pages of</p> <p>5 designs before the burner kit that were</p> <p>6 provided to you?</p> <p>7 MR. ISRAEL: Objection.</p> <p>8 MR. McKEE: Do you want to count</p> <p>9 the number of pages?</p> <p>10 Q. I just want the record to be</p> <p>11 clear what he did and did not receive.</p> <p>12 A. There are ten pages, some of</p> <p>13 those were shown earlier, so like repeats.</p> <p>14 But there are ten pages. Yes.</p> <p>15 Q. And those ten pages were provided</p> <p>16 to you?</p> <p>17 A. Yes.</p> <p>18 Q. I will represent to you that when</p> <p>19 I hand you an exhibit like this I have done my</p> <p>20 best to try and give you a correct exhibit.</p> <p>21 And I will draw your attention to</p> <p>22 the cover. The first page of Plaintiff's</p> <p>23 Exhibit 2, and under the list of attachments</p> <p>24 on the last line of the list of attachments it</p> <p>25 says, EcoSmart XL Burner.PDF. Is it possible</p>

10 (Pages 34 to 37)

<p style="text-align: right;">Page 38</p> <p>1 G. Hayden</p> <p>2 that those last few pages, related to that XL</p> <p>3 burner, were provided to your e-mail address</p> <p>4 but that you never saw them?</p> <p>5 A. No, absolutely not. I see</p> <p>6 everything that comes in, no.</p> <p>7 Q. You are certain you never saw</p> <p>8 them?</p> <p>9 A. No, not those light fixtures.</p> <p>10 Q. Am I correct that this e-mail was</p> <p>11 addressed to you?</p> <p>12 A. Yes.</p> <p>13 Q. And your e-mail address is</p> <p>14 GHAI@NYCT.net?</p> <p>15 A. Right.</p> <p>16 Q. Drawing your attention to</p> <p>17 Plaintiff's Exhibit 3 I would ask that you</p> <p>18 take a look.</p> <p>19 THE WITNESS: May I say something</p> <p>20 about this before to you or not really.</p> <p>21 MR. McKEE: If you need to take a</p> <p>22 short break, there is no question</p> <p>23 pending. Do you want to step out?</p> <p>24 Shall we step out?</p> <p>25 THE WITNESS: Sure, why not.</p>	<p style="text-align: right;">Page 40</p> <p>1 G. Hayden</p> <p>2 these designs to you?</p> <p>3 MR. McKEE: Objection. You may</p> <p>4 answer if you have an answer.</p> <p>5 A. It was a redundancy. I already</p> <p>6 had the plans from Pepe on the computer.</p> <p>7 These things here are totally a redundancy. I</p> <p>8 just don't understand why. What's this? You</p> <p>9 know, this is interesting, right?</p> <p>10 Q. And did you receive the plans</p> <p>11 from Pepe by e-mail?</p> <p>12 A. By hand and by e-mail and by</p> <p>13 AutoCAD.</p> <p>14 MR. ISRAEL: Let me him ask the</p> <p>15 question.</p> <p>16 MR. McKEE: You have to slow</p> <p>17 down.</p> <p>18 THE WITNESS: Right.</p> <p>19 MR. McKEE: If you speak out loud</p> <p>20 the court reporter is obligated to take</p> <p>21 down everything. So if you have a</p> <p>22 random thought in your head, keep it in</p> <p>23 your head, okay.</p> <p>24 THE WITNESS: Okay.</p> <p>25 MR. MANDEL: I would just ask,</p>
<p style="text-align: right;">Page 39</p> <p>1 G. Hayden</p> <p>2 (Witness and counsel confer from</p> <p>3 10:59 a.m. until 11:03 a.m.)</p> <p>4 Q. Is there anything about your</p> <p>5 testimony from earlier today that you would</p> <p>6 like to correct?</p> <p>7 A. Well, it is not really a</p> <p>8 correction. It is the fact that you're</p> <p>9 referring to the information that I received</p> <p>10 from Pepe and the e-mails that I received from</p> <p>11 Pepe. Well, maybe you should look at this</p> <p>12 yourself. This is not from Pepe. This is</p> <p>13 from Dragan who is the contractor.</p> <p>14 Q. Who is Dragan?</p> <p>15 A. Dragan is the contractor who was</p> <p>16 hired by the client to build the building. He</p> <p>17 is the contractor.</p> <p>18 Q. And did Dragan work for a</p> <p>19 company?</p> <p>20 A. No, Dragan worked for the client.</p> <p>21 I mean, he has his own company, I'm sure he</p> <p>22 does, but I'm not sure what it is. Dragan has</p> <p>23 a brother and they built the apartment for the</p> <p>24 client.</p> <p>25 Q. And why was it Dragan that sent</p>	<p style="text-align: right;">Page 41</p> <p>1 G. Hayden</p> <p>2 has the e-mail been produced to you?</p> <p>3 MR. McKEE: Which e-mail?</p> <p>4 MR. MANDEL: The e-mail from Pepe</p> <p>5 Calderon's design attaching various</p> <p>6 designs or AutoCADS or whatever.</p> <p>7 MR. McKEE: I can't tell you off</p> <p>8 the top of my head what was or was not</p> <p>9 included in the first 240 pages or, off</p> <p>10 the top of my head, what was included</p> <p>11 in this most recent 140 pages that I</p> <p>12 gave to you.</p> <p>13 What I can tell you is that I</p> <p>14 provided a disk which was a copy of</p> <p>15 everything stored electronically by the</p> <p>16 client or provided to your predecessor,</p> <p>17 and I assumed that was passed on to</p> <p>18 you, and I gave you a paper copy of</p> <p>19 everything that I physically saw in the</p> <p>20 client's records. And I just can't</p> <p>21 tell you off the top of my head that</p> <p>22 that was something from Pepe or did</p> <p>23 not.</p> <p>24 Q. Mr. Hayden, would you have</p> <p>25 retained the e-mail from Pepe Calderon Design</p>

11 (Pages 38 to 41)

<p style="text-align: right;">Page 42</p> <p>1 G. Hayden</p> <p>2 attaching the various designs?</p> <p>3 A. No, we don't have the e-mail</p> <p>4 anymore, but we made copies, we printed it</p> <p>5 several times. The e-mail is long gone now,</p> <p>6 it is just gone. But we have that on the</p> <p>7 computer.</p> <p>8 Q. What do you have on the computer?</p> <p>9 A. Pepe's drawings.</p> <p>10 Q. And do you have the cover e-mail</p> <p>11 which attaches those drawings?</p> <p>12 A. Not on the AutoCAD, that does not</p> <p>13 reflect it. AutoCAD doesn't see that. It</p> <p>14 only sees drawings. It doesn't see offer</p> <p>15 sheets.</p> <p>16 Q. The AutoCAD materials that you</p> <p>17 receive from Mr. Calderon, have you produced</p> <p>18 those in this case?</p> <p>19 A. Produced how?</p> <p>20 Q. Have you provided us with a copy</p> <p>21 of the AutoCAD files?</p> <p>22 MR. McKEE: He provided a disk at</p> <p>23 the start of the litigation and I</p> <p>24 provided that to you.</p> <p>25 Q. Would those be DWG files?</p>	<p style="text-align: right;">Page 44</p> <p>1 G. Hayden</p> <p>2 A. Oops, no. Now we stop.</p> <p>3 Q. Hold on. I haven't asked the</p> <p>4 question yet.</p> <p>5 MR. McKEE: There is no question</p> <p>6 pending. Wait for the question.</p> <p>7 Q. Am I correct that the next eight</p> <p>8 pages are designs that you received that are</p> <p>9 Pepe Calderon's designs?</p> <p>10 A. Yes.</p> <p>11 Q. Now, let's turn to the page after</p> <p>12 the eighth page of Pepe Calderon Designs and I</p> <p>13 would ask, do you know what the next several</p> <p>14 pages are?</p> <p>15 A. No, I do not. Never seen this</p> <p>16 before. No, I did not, no, no, no. There's</p> <p>17 more.</p> <p>18 Q. Are these designs of pictures</p> <p>19 that were to go in the apartment?</p> <p>20 A. What?</p> <p>21 Q. The pages after the eighth</p> <p>22 page of Pepe Calderon Designs?</p> <p>23 MR. McKEE: Objection.</p> <p>24 A. No. What they seem to be right</p> <p>25 now that I'm looking at those?</p>
<p style="text-align: right;">Page 43</p> <p>1 G. Hayden</p> <p>2 A. Yes, DWG.</p> <p>3 Q. For the record, we had difficulty</p> <p>4 opening some of the files.</p> <p>5 A. Because you don't have AutoCAD.</p> <p>6 Q. Our vendor has AutoCAD.</p> <p>7 A. It is released 2006.</p> <p>8 Q. Okay.</p> <p>9 A. Now you can open them.</p> <p>10 Q. All right. Turning your</p> <p>11 attention to Plaintiff's Exhibit 3, the first</p> <p>12 page is a cover e-mail from Dragan to</p> <p>13 yourself, is that correct?</p> <p>14 In case it helps you, each</p> <p>15 document that you look at today has a yellow</p> <p>16 sticker on it and on that yellow sticker there</p> <p>17 should be an exhibit number.</p> <p>18 MR. MANDEL: So the record is</p> <p>19 clear you can now see that Mr. Hayden</p> <p>20 is looking at Exhibit 3. Am I correct</p> <p>21 that the cover page is an e-mail from</p> <p>22 Dragan to you.</p> <p>23 A. Yes, it is from Dragan, not from</p> <p>24 Pepe.</p> <p>25 Q. Am I correct --</p>	<p style="text-align: right;">Page 45</p> <p>1 G. Hayden</p> <p>2 Q. What do they appear to you to be?</p> <p>3 A. Book cases.</p> <p>4 Q. Do you know if those were book</p> <p>5 cases that were supposed to go in the</p> <p>6 apartment?</p> <p>7 A. No, I don't know that, and I</p> <p>8 wouldn't want that either. No, I don't know</p> <p>9 that. No idea. These are horrible drawings.</p> <p>10 No. No.</p> <p>11 Q. What do you mean?</p> <p>12 A. Those?</p> <p>13 Q. Yes, that's what I'm referring</p> <p>14 to.</p> <p>15 A. No, no.</p> <p>16 Q. What do you mean you wouldn't</p> <p>17 want that?</p> <p>18 A. If somebody asked my opinion,</p> <p>19 would you want to build this for me? I would</p> <p>20 call and say, what is this? What are you</p> <p>21 sending? This? No.</p> <p>22 Q. You don't think these are good</p> <p>23 book cases?</p> <p>24 A. No, no, I do not. And I've never</p> <p>25 seen them before either. I'm surprised the</p>

12 (Pages 42 to 45)

<p style="text-align: right;">Page 46</p> <p>1 G. Hayden</p> <p>2 client would want that, shocked.</p> <p>3 Q. Are the Pepe Calderon Designs</p> <p>4 that are included in Plaintiff's Exhibit 3 the</p> <p>5 designs that you intended to reflect an</p> <p>6 intention of when you prepared your</p> <p>7 construction drawings?</p> <p>8 MR. ISRAEL: Objection, you can</p> <p>9 answer.</p> <p>10 MR. McKEE: Objection as well.</p> <p>11 A. Can you repeat that?</p> <p>12 Q. Sure. The Pepe Calderon designs</p> <p>13 that are included in Plaintiff's Exhibit 3,</p> <p>14 are those designs that you intended to reflect</p> <p>15 an intention of when you prepared your</p> <p>16 construction drawings?</p> <p>17 MR. ISRAEL: Objection.</p> <p>18 A. Yeah, yes, that's what they are.</p> <p>19 Yes.</p> <p>20 Q. At any time, were you provided</p> <p>21 with any Triarch designs?</p> <p>22 A. Why would you say that? Really</p> <p>23 why would you say that?</p> <p>24 Q. It is my job to ask questions</p> <p>25 today and to see what you know and what you</p>	<p style="text-align: right;">Page 48</p> <p>1 G. Hayden</p> <p>2 A. I don't really know Mr. Calderon</p> <p>3 very well, or Pepe for that matter. I don't</p> <p>4 know his capacity. I don't know what brain</p> <p>5 power he's got and doesn't have. I don't know</p> <p>6 him. All I can tell you is he gave me those,</p> <p>7 and I found them very nice. I found that</p> <p>8 designer to be a real talent. Very few people</p> <p>9 are like that.</p> <p>10 Q. Since this case was filed, have</p> <p>11 you had an opportunity to view any of the</p> <p>12 drawings that Triarch prepared in connection</p> <p>13 with this project?</p> <p>14 MR. ISRAEL: Objection.</p> <p>15 A. You keep mentioning their name.</p> <p>16 I'd rather you don't do that.</p> <p>17 The only possible set of</p> <p>18 documents that I saw was this morning in the</p> <p>19 attorney's office. He came with a bunch of</p> <p>20 drawings and I said, what the hell is that?</p> <p>21 Q. So this morning you saw some</p> <p>22 Triarch drawings, is that correct?</p> <p>23 MR. ISRAEL: Objection.</p> <p>24 A. I saw an architectural set, no</p> <p>25 reference to who provided it. I saw an</p>
<p style="text-align: right;">Page 47</p> <p>1 G. Hayden</p> <p>2 don't know. And the questions may seem odd to</p> <p>3 you, and for that I apologize. But it is my</p> <p>4 obligation to understand, to try and</p> <p>5 understand all the facts that you have in your</p> <p>6 possession, so that's why I asked that</p> <p>7 question. So I will repeat the question.</p> <p>8 A. Will you repeat that one more</p> <p>9 time?</p> <p>10 Q. Of course. Did you ever receive</p> <p>11 any drawings or designs from Triarch?</p> <p>12 A. No.</p> <p>13 Q. Are you certain about that?</p> <p>14 A. I said, no.</p> <p>15 Q. And is it possible that</p> <p>16 Mr. Calderon copied some of Triarch's drawings</p> <p>17 or included some of Triarch's drawings in the</p> <p>18 Calderon designs?</p> <p>19 MR. McKEE: Objection.</p> <p>20 MR. ISRAEL: Objection.</p> <p>21 MR. McKEE: Go ahead.</p> <p>22 A. Did you say is it possible?</p> <p>23 Q. Yes.</p> <p>24 MR. McKEE: He's asking you to</p> <p>25 guess.</p>	<p style="text-align: right;">Page 49</p> <p>1 G. Hayden</p> <p>2 architectural set that looks familiar and</p> <p>3 contents of the apartment and layout. Upside</p> <p>4 down I can see it.</p> <p>5 Q. I apologize for interrupting you.</p> <p>6 A. Not a problem.</p> <p>7 MR. ISRAEL: Excuse me for one</p> <p>8 second, we have an agreement that one</p> <p>9 when one party objects, that it would</p> <p>10 be good for both parties, in other</p> <p>11 words, if Wes has an objection, that it</p> <p>12 would be the same as my making the</p> <p>13 objection also.</p> <p>14 MR. MANDEL: I would agree to</p> <p>15 that.</p> <p>16 MR. McKEE: Sure.</p> <p>17 MR. ISRAEL: Okay.</p> <p>18 Q. And those drawings that you saw</p> <p>19 this morning that were familiar in content,</p> <p>20 what were they familiar in content to?</p> <p>21 A. The apartment, the apartment.</p> <p>22 The configuration, the bedroom location, the</p> <p>23 corridors, the layout, right.</p> <p>24 Q. Did those drawings indicate who</p> <p>25 had drawn them?</p>

13 (Pages 46 to 49)

<p style="text-align: right;">Page 50</p> <p>1 G. Hayden</p> <p>2 MR. ISRAEL: Objection.</p> <p>3 A. Indicate who drew them? You mean</p> <p>4 the architect or the draft person?</p> <p>5 Q. The architect.</p> <p>6 A. It has a name on it.</p> <p>7 Q. What was that name?</p> <p>8 A. You want me to tell you? Can you</p> <p>9 open it one more time?</p> <p>10 First of all, you have to</p> <p>11 understand this is the right address, right</p> <p>12 building, right apartment. It doesn't say the</p> <p>13 apartment number, but who cares.</p> <p>14 MR. McKEE: He's looking at</p> <p>15 Exhibit 7, Defendants' Exhibit 7.</p> <p>16 A. Right.</p> <p>17 MR. McKEE: So the question was?</p> <p>18 THE WITNESS: Who prepare these</p> <p>19 drawings, right?</p> <p>20 MR. McKEE: Yes.</p> <p>21 MR. ISRAEL: Actually it was,</p> <p>22 does it indicate who prepared these</p> <p>23 documents?</p> <p>24 A. T R I A R C H, that stands</p> <p>25 probably for Triarch.</p>	<p style="text-align: right;">Page 52</p> <p>1 G. Hayden</p> <p>2 A. I didn't look period. Closely or</p> <p>3 otherwise.</p> <p>4 Q. And other than those two</p> <p>5 occasions, have you ever seen any Triarch</p> <p>6 drawings on any other occasions?</p> <p>7 MR. ISRAEL: Objection.</p> <p>8 A. No.</p> <p>9 Q. Turning your attention again to</p> <p>10 Defendant's Exhibit 7, you said Defendant's</p> <p>11 Exhibit 3 looked familiar to you in content.</p> <p>12 What about its content was familiar?</p> <p>13 A. The building address is very</p> <p>14 familiar to me. The layout of the apartment</p> <p>15 is very familiar to me. We measured every</p> <p>16 inch of that apartment. I can tell you from a</p> <p>17 distance what floor the apartment is in</p> <p>18 because they differ in every floor. This</p> <p>19 apartment was measured inch by inch by me and</p> <p>20 I have the drawings to prove it. We measured</p> <p>21 every single --</p> <p>22 Q. I just want to interrupt you</p> <p>23 because I don't want to keep you here all day.</p> <p>24 MR. ISRAEL: I want to hear his</p> <p>25 answer.</p>
<p style="text-align: right;">Page 51</p> <p>1 G. Hayden</p> <p>2 Q. When I say Triarch, that's</p> <p>3 exactly who I am referring to.</p> <p>4 A. Okay.</p> <p>5 Q. Was this morning the first time</p> <p>6 you saw Plaintiff's Exhibit 7?</p> <p>7 A. When the attorneys came first</p> <p>8 time he brought some plans with him, but we</p> <p>9 already don't look closely at that. They were</p> <p>10 in his possession, not in mine. Okay. I did</p> <p>11 not go through that. As a matter of fact, I</p> <p>12 did not want to go through that. I don't want</p> <p>13 to look at anything that has not my name on</p> <p>14 it, don't want to see it.</p> <p>15 MR. ISRAEL: I just want to</p> <p>16 caution the witness not to reveal any</p> <p>17 communications that he had with his</p> <p>18 counsel in answering the questions</p> <p>19 right now.</p> <p>20 THE WITNESS: That's fine.</p> <p>21 Q. This morning was the first time</p> <p>22 you looked closely at Defendant's Exhibit 7?</p> <p>23 A. Not closely, but I looked.</p> <p>24 Q. And prior to today, you didn't</p> <p>25 look closely at Defendant's Exhibit 7?</p>	<p style="text-align: right;">Page 53</p> <p>1 G. Hayden</p> <p>2 A. Please don't keep me, I'm too</p> <p>3 busy for you.</p> <p>4 Anyway, this is the content of</p> <p>5 the apartment. I can tell from the distance</p> <p>6 by location of the elevator, lobby, entrances,</p> <p>7 park views, and all the absence of. I mean,</p> <p>8 this is the apartment.</p> <p>9 Q. And do you know whether Pepe</p> <p>10 Calderon copied any of the drawings that are</p> <p>11 in Defendant's Exhibit 7?</p> <p>12 MR. McKEE: Objection.</p> <p>13 MR. ISRAEL: Objection.</p> <p>14 A. You make a connection yourself.</p> <p>15 How do I know if he copied it or not?</p> <p>16 Number 1, I never saw this to say if he copied</p> <p>17 this. You want me to compare this to Pepe's</p> <p>18 now; is this what you want me to do?</p> <p>19 Q. We're going to do that at some</p> <p>20 point today.</p> <p>21 Do you notice any similarities</p> <p>22 between Defendants' Exhibit 7 and Pepe's</p> <p>23 drawings?</p> <p>24 MR. McKEE: Objection.</p> <p>25 MR. ISRAEL: Objection.</p>

14 (Pages 50 to 53)

<p style="text-align: right;">Page 54</p> <p>1 G. Hayden</p> <p>2 A. Do I see any similarities between</p> <p>3 Pepe's drawings and these drawings? Just</p> <p>4 remember one thing, it is the same apartment</p> <p>5 you're looking at, okay, you're looking at the</p> <p>6 same apartment. So obviously if there are two</p> <p>7 different apartments, the answer is probably</p> <p>8 not. But if you're dealing with the same</p> <p>9 apartment, what do you expect, the foyer to go</p> <p>10 somewhere else? I mean, it's the same foyer</p> <p>11 right? It's the same kitchen location, same</p> <p>12 living room location, same library. So there</p> <p>13 has to be a direct relationship between the</p> <p>14 two, there must be, if you're dealing with the</p> <p>15 same apartment, right?</p> <p>16 Q. Having had an opportunity this</p> <p>17 morning to review Defendant's Exhibit 7 and</p> <p>18 the fact that you're already familiar with</p> <p>19 Mr. Calderon's designs, sitting here today, is</p> <p>20 there any reason to believe that Mr. Calderon</p> <p>21 did, in fact, copy some of Triarch drawings?</p> <p>22 MR. McKEE: Objection.</p> <p>23 MR. ISRAEL: Objection.</p> <p>24 A. I would not think anybody would</p> <p>25 do that. Okay? That's my professional</p>	<p style="text-align: right;">Page 56</p> <p>1 G. Hayden</p> <p>2 brokers.</p> <p>3 Q. And what's the name of that other</p> <p>4 client?</p> <p>5 A. The client is Michael Maidan, M A</p> <p>6 I D A N, and the broker.</p> <p>7 Q. What's the broker's name?</p> <p>8 A. Evi, E V I, Voda, V O D A.</p> <p>9 Q. How did you first hear of</p> <p>10 Mr. Voronchenko? Did Mr. Maidan or Mr. Voda</p> <p>11 mention him on the phone one day, or did you</p> <p>12 get a call out of the blue from</p> <p>13 Mr. Voronchenko?</p> <p>14 A. They mentioned him. The client</p> <p>15 is going to be calling me, he's buying an</p> <p>16 apartment, can you look to see if the</p> <p>17 apartment is right, wrong, what he can do with</p> <p>18 it. That's why there was a broker involved.</p> <p>19 Q. Did you hear from Mr. Voronchenko</p> <p>20 shortly thereafter?</p> <p>21 A. Yes.</p> <p>22 Q. And do you recall approximately</p> <p>23 when that was?</p> <p>24 A. Ten days later, a week later,</p> <p>25 something like that.</p>
<p style="text-align: right;">Page 55</p> <p>1 G. Hayden</p> <p>2 opinion. Anybody would do that. Okay? I</p> <p>3 don't believe that. Okay? I just don't</p> <p>4 believe that.</p> <p>5 Q. When were you first hired on the</p> <p>6 project?</p> <p>7 A. I have a contract. I don't have</p> <p>8 it with me, but I had a contract, or a letter</p> <p>9 of intent, something to that effect. It is a</p> <p>10 written agreement.</p> <p>11 Q. Who was your client on the</p> <p>12 project?</p> <p>13 A. Vladimir and he is represented by</p> <p>14 Garry Braderman and Vladimir. My contact is</p> <p>15 Medallion, Inc. that's the client. Medallion,</p> <p>16 Inc. is the entity that redeemed my services</p> <p>17 represented by Vladimir Voronchenko and Garry</p> <p>18 Braderman, that's how the contract was signed.</p> <p>19 Q. When you say Vladimir, you're</p> <p>20 referring to Vladimir Voronchenko?</p> <p>21 A. Yes, I do.</p> <p>22 Q. How did you come to be introduced</p> <p>23 to Mr. Voronchenko?</p> <p>24 A. Through another client who I have</p> <p>25 been working for for quite sometime, and</p>	<p style="text-align: right;">Page 57</p> <p>1 G. Hayden</p> <p>2 Q. And what did Mr. Voronchenko say</p> <p>3 to you when he called?</p> <p>4 A. He wants me to give him a</p> <p>5 professional opinion on the apartment, take a</p> <p>6 look at it, tell me what you think.</p> <p>7 Q. Was that before Mr. Voronchenko</p> <p>8 purchased the apartment?</p> <p>9 A. I don't know. I didn't know</p> <p>10 because all I know is like, give me your</p> <p>11 opinion on the subject. I think he probably</p> <p>12 just bought it, something like that. He may</p> <p>13 have closed on it.</p> <p>14 Q. After that initial telephone</p> <p>15 conversation with Mr. Voronchenko, what did</p> <p>16 you do next on the project?</p> <p>17 A. Sent him an agreement.</p> <p>18 Q. Did you see the apartment before</p> <p>19 you sent him an agreement?</p> <p>20 A. Yes, I certainly did.</p> <p>21 Q. Was Mr. Voronchenko present when</p> <p>22 you visited the apartment?</p> <p>23 A. Of course.</p> <p>24 Q. And who else was present?</p> <p>25 A. His wife, I believe, and his</p>

15 (Pages 54 to 57)



<p style="text-align: right;">Page 58</p> <p>1 G. Hayden</p> <p>2 staff, he comes with a entourage. He's got a</p> <p>3 whole bunch of people.</p> <p>4 Q. What's his wife's name?</p> <p>5 A. I have no, idea.</p> <p>6 Q. Is his wife from New York?</p> <p>7 A. Russia.</p> <p>8 Q. She's from Russia?</p> <p>9 A. Yes.</p> <p>10 Q. Does she live in New York or live</p> <p>11 in Russia?</p> <p>12 A. Russia.</p> <p>13 Q. Were any children present?</p> <p>14 A. No.</p> <p>15 Q. Do Mr. Voronchenko and his wife</p> <p>16 have any children, to your knowledge?</p> <p>17 A. I think so, they have two, a boy</p> <p>18 and a girl.</p> <p>19 Q. And do you know roughly how old</p> <p>20 they were at the time of this meeting?</p> <p>21 A. Not really. I know they are not</p> <p>22 that old. They're like probably 10, 15,</p> <p>23 something like that. They're not that old.</p> <p>24 Q. What did Mr. Voronchenko say to</p> <p>25 you about what he wanted to do with the</p>	<p style="text-align: right;">Page 60</p> <p>1 G. Hayden</p> <p>2 the apartment had problems, okay? And we</p> <p>3 also, off the subject, the apartment had mold</p> <p>4 so we had to remove that as well.</p> <p>5 Yeah, that's a serious thing that</p> <p>6 as an architect you will say, yeah, okay, we</p> <p>7 can probably take care of that too.</p> <p>8 By removing the entire face of</p> <p>9 the exterior wall from within and redo the</p> <p>10 insulation, make sure there is no mold this</p> <p>11 time, and put it back together again. So it</p> <p>12 is like really major stuff that he was</p> <p>13 concerned with. I don't blame him. But you</p> <p>14 know what, it is not just all aesthetics, the</p> <p>15 apartment had problems. So we can fix that.</p> <p>16 Q. Other than the mold, did the</p> <p>17 apartment have any other problems?</p> <p>18 A. I was looking at the electric</p> <p>19 panels, see if there is a problem with that.</p> <p>20 Didn't see any. But water pressure had no</p> <p>21 problem. No, not really, we looked at all</p> <p>22 that. No, no, just the mold was an issue.</p> <p>23 The floors were not so straight, quite</p> <p>24 honestly, either. The wood floors were really</p> <p>25 bad.</p>
<p style="text-align: right;">Page 59</p> <p>1 G. Hayden</p> <p>2 apartment?</p> <p>3 A. Well, he didn't say much. He</p> <p>4 said, can you just measure it up and -- he</p> <p>5 mentioned the fact that the corridor and the</p> <p>6 foyer configuration is very important when the</p> <p>7 elevator opens into a foyer that has a center</p> <p>8 presentation to it. And some doors are</p> <p>9 projecting to locations, some doors that lead</p> <p>10 to staircases, if that can be moved or</p> <p>11 relocated, something like that. And I said</p> <p>12 the only way we can do this if we measure it</p> <p>13 and I'll let you know.</p> <p>14 Q. Other then mentioning the foyer</p> <p>15 area, did he mention anything else that he</p> <p>16 wanted to do with the apartment?</p> <p>17 A. Yes, yes, closets in the bedroom.</p> <p>18 You have no idea how many closets my wife</p> <p>19 needs. Well, you don't have to tell me, I</p> <p>20 have wife too. In any event, closets in the</p> <p>21 bedrooms, really important.</p> <p>22 The foyer, extremely important.</p> <p>23 The connection, the foyer to the dining room,</p> <p>24 it is not architectural vocabulary that he was</p> <p>25 really concerned with because the layout of</p>	<p style="text-align: right;">Page 61</p> <p>1 G. Hayden</p> <p>2 Q. When you say they weren't</p> <p>3 straight, do you mean they weren't level?</p> <p>4 A. No, they weren't. No, they</p> <p>5 weren't.</p> <p>6 MR. McKEE: I need to take a</p> <p>7 short break.</p> <p>8 (Recess from 11:28 a.m. until</p> <p>9 11:35 a.m.)</p> <p>10 (Plaintiff's Exhibit 4, a letter</p> <p>11 dated March 12, 2008, from Medallion,</p> <p>12 Inc., Bates stamped GH 162 through</p> <p>13 GH 165 was marked for identification,</p> <p>14 as of this date.)</p> <p>15 Q. Other than the mold on the</p> <p>16 floors, were there any other problems with the</p> <p>17 apartment when you viewed it that first time?</p> <p>18 MR. ISRAEL: Objection.</p> <p>19 A. Well, these are things that were</p> <p>20 corrected under my say so. But other than</p> <p>21 that, the standard construction really -- I</p> <p>22 didn't like the doors? By the way, but what</p> <p>23 difference does it make if I like the doors or</p> <p>24 don't like the doors. The doors are part of</p> <p>25 the deal and I will replace the doors anyway,</p>

16 (Pages 58 to 61)

<p style="text-align: right;">Page 62</p> <p>1 G. Hayden</p> <p>2 right? So you know, standard stuff, you go,</p> <p>3 you look around, and that's it, take pictures.</p> <p>4 Q. And other than Mr. Voronchenko</p> <p>5 telling you the foyer area was very important</p> <p>6 to him and the master bedroom closets were</p> <p>7 very important to him, did he give you any</p> <p>8 other direction as to renovations he wanted to</p> <p>9 make to the apartment?</p> <p>10 MR. ISRAEL: Objection you can</p> <p>11 answer.</p> <p>12 A. He wanted the whole apartment</p> <p>13 gutted. You got to even just renovate the</p> <p>14 whole apartment.</p> <p>15 Q. Mr. Voronchenko said he wanted to</p> <p>16 do a gut renovation?</p> <p>17 A. Yes.</p> <p>18 Q. Did he give you any directions or</p> <p>19 instructions or idea about what he wanted out</p> <p>20 of the gut renovation, other than the changes</p> <p>21 to the master bedroom closets and the foyer?</p> <p>22 MR. ISRAEL: Objection. You can</p> <p>23 answer.</p> <p>24 A. He had reservations in the</p> <p>25 reconstruction of the bathrooms with the</p>	<p style="text-align: right;">Page 64</p> <p>1 G. Hayden</p> <p>2 apartment to be like?</p> <p>3 A. Worse than that. What he did, he</p> <p>4 presented me with a brochure designed by an</p> <p>5 interior designer from Russia.</p> <p>6 MR. McKEE: We're talking about</p> <p>7 the first meeting here?</p> <p>8 THE WITNESS: First meeting?</p> <p>9 Q. This question applied to any</p> <p>10 time.</p> <p>11 THE WITNESS: At any time he</p> <p>12 said, at any time.</p> <p>13 MR. McKEE: Okay.</p> <p>14 A. And I said, what's this? He</p> <p>15 said, well, this is a designer from Russia.</p> <p>16 What do you think?</p> <p>17 Q. Was this a brochure of someone</p> <p>18 else's apartment or was this a brochure for</p> <p>19 this apartment?</p> <p>20 A. No, no, this apartment.</p> <p>21 Q. Did you say it was a Russian</p> <p>22 architect?</p> <p>23 A. Or designer.</p> <p>24 Q. And what was the name of the</p> <p>25 Russian architect?</p>
<p style="text-align: right;">Page 63</p> <p>1 G. Hayden</p> <p>2 exception of the master bath. He made me not</p> <p>3 want to renovate all the bathrooms even though</p> <p>4 I would say he really should do that. These</p> <p>5 bathrooms are not so great, but that's not</p> <p>6 here or there. But the master bathroom</p> <p>7 intended to be renovated, of course. The</p> <p>8 other two bathrooms could remain -- could be</p> <p>9 untouched, but it did not end up that way.</p> <p>10 Of course, that's what he wanted.</p> <p>11 A clean apartment, as much as possible.</p> <p>12 Q. Did he talk about any ambition or</p> <p>13 ideas about the design or feel or aesthetic of</p> <p>14 the apartment?</p> <p>15 A. Many times.</p> <p>16 Q. Let's just start with this first</p> <p>17 visit. Did he give you any insight on any of</p> <p>18 those issues on the first visit?</p> <p>19 A. No.</p> <p>20 Q. Later on he gave you insights on</p> <p>21 the aesthetic or feel?</p> <p>22 A. He didn't give me insights at all</p> <p>23 about the aesthetics.</p> <p>24 Q. Did he give you any information</p> <p>25 about what he wanted the aesthetic of the</p>	<p style="text-align: right;">Page 65</p> <p>1 G. Hayden</p> <p>2 A. I have no idea. I still have the</p> <p>3 brochure, I believe, in the office.</p> <p>4 Q. And when was that provided to</p> <p>5 you?</p> <p>6 A. I would say three, four months</p> <p>7 into it.</p> <p>8 Q. What did Mr. Voronchenko want you</p> <p>9 to do with the brochure?</p> <p>10 A. See if I like it to begin with.</p> <p>11 Q. Did you like it?</p> <p>12 A. No, not really.</p> <p>13 Q. Why didn't you like it?</p> <p>14 A. It is very Russian. It just</p> <p>15 doesn't belong on Park Avenue, that's what I</p> <p>16 think.</p> <p>17 Q. Is that what you told</p> <p>18 Mr. Voronchenko?</p> <p>19 A. Absolutely.</p> <p>20 Q. How did he respond?</p> <p>21 A. We'll find another designer. I</p> <p>22 said, please do.</p> <p>23 You can see he's shopping for</p> <p>24 designers, he wants something nice, he can get</p> <p>25 it. Certainly I'm not going to give it to</p>

17 (Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 G. Hayden</p> <p>2 you. I'm not going to give you interior</p> <p>3 decorating ideas, it is not my job. So go</p> <p>4 find a designer. So he keeps shopping for a</p> <p>5 designer. It is logical, isn't it?</p> <p>6 Q. So in the beginning, turning your</p> <p>7 attention again to the beginning of this</p> <p>8 project --</p> <p>9 A. Right.</p> <p>10 Q. -- was it understood from the</p> <p>11 beginning that you would provide architectural</p> <p>12 services and someone else would provide design</p> <p>13 services?</p> <p>14 A. He hit on that, but he was not</p> <p>15 all that clear on the subject. He did say</p> <p>16 something about we're going to design it a</p> <p>17 little bit down the line. I said, sure you</p> <p>18 should design it down the line.</p> <p>19 I mean, as an architect, you're</p> <p>20 not going to get the same feel that you would</p> <p>21 get from interior designer. I did say that.</p> <p>22 I keep saying that. I say it all the time.</p> <p>23 We're not decorators. We're not going to</p> <p>24 paint purple for you. We just don't do that.</p> <p>25 We design the layout based on</p>	<p style="text-align: right;">Page 68</p> <p>1 G. Hayden</p> <p>2 fine.</p> <p>3 Q. At the very beginning of the</p> <p>4 project did you have an understanding as to</p> <p>5 whether Mr. Voronchenko was going to be hiring</p> <p>6 an interior designer?</p> <p>7 A. We didn't know the complexity of</p> <p>8 this project, whether he's going to need it or</p> <p>9 maybe not. If it is not that complicated what</p> <p>10 do I need a designer like a hole in the head,</p> <p>11 okay, right.</p> <p>12 Q. At some point, did</p> <p>13 Mr. Voronchenko decide to hire one or more</p> <p>14 interior designers?</p> <p>15 A. He gave me a brochure. He says,</p> <p>16 what do you think of this? And I said, this</p> <p>17 is no good.</p> <p>18 Q. And prior to your receipt of that</p> <p>19 brochure, you and he never had a conversation</p> <p>20 about him hiring a Russian interior designer,</p> <p>21 correct?</p> <p>22 A. No, no, not at all. He just</p> <p>23 shocked me with that.</p> <p>24 Q. Were you surprised when you</p> <p>25 received a brochure?</p>
<p style="text-align: right;">Page 67</p> <p>1 G. Hayden</p> <p>2 what the architect believes is appropriate,</p> <p>3 and we let the surface treatment, surface</p> <p>4 treatment be handled by others such as colors,</p> <p>5 surface materials. But we have to know about</p> <p>6 it to incorporate it or else it's just not</p> <p>7 going to happen. You don't call an interior</p> <p>8 decorator to paint purple. I don't know</p> <p>9 whether the wall was going to be done, like</p> <p>10 how? So, yeah, I mean, most sophisticated</p> <p>11 clients do that. They have an architect and</p> <p>12 interior designers and they are separate</p> <p>13 entities, but they work together, they have to</p> <p>14 collaborate to get the product out. That's</p> <p>15 normal.</p> <p>16 I'm doing it now, I just told you</p> <p>17 just different instances, different designers.</p> <p>18 That's a plus, that's really a good thing, you</p> <p>19 know? To have both.</p> <p>20 Q. So in the beginning of the</p> <p>21 project you suggested that he might want to</p> <p>22 hire an interior designer?</p> <p>23 A. I didn't say that, he didn't say</p> <p>24 that. He doesn't have to consult with me. If</p> <p>25 he wants an interior designer, bring him in,</p>	<p style="text-align: right;">Page 69</p> <p>1 G. Hayden</p> <p>2 A. Not really surprised. I mean, it</p> <p>3 is his apartment, his house, that's what he</p> <p>4 wants. The fact that he consulted with me is</p> <p>5 important because if he goes behind my back it</p> <p>6 is no good, okay. You got to show him what</p> <p>7 you have, you have to tell him what you have</p> <p>8 in mind, so this way I can do it for you or</p> <p>9 else why am I there for?</p> <p>10 Q. Open communication is crucial for</p> <p>11 you to do a good job?</p> <p>12 A. Open and close, it doesn't</p> <p>13 matter. If you have a degree of information</p> <p>14 you don't give me that, that's not</p> <p>15 communication, that's a must. You want to</p> <p>16 talk to me after the time, that's okay, we</p> <p>17 don't need you, right?</p> <p>18 Q. At some point in time, you came</p> <p>19 to learn that Mr. Voronchenko had hired Pepe</p> <p>20 Calderon, correct?</p> <p>21 A. Yes.</p> <p>22 Q. When did this occur?</p> <p>23 A. When Pepe comes in, when Pepe</p> <p>24 came in and gave me the drawings. Not before,</p> <p>25 not after. He came once. I was told by the</p>

18 (Pages 66 to 69)

<p style="text-align: right;">Page 70</p> <p>1 G. Hayden</p> <p>2 client that you're going to be receiving</p> <p>3 drawings from someone named Pepe. Can you</p> <p>4 please take a look at those? Sure. That's</p> <p>5 the extent. That's once and for all. It was</p> <p>6 never repeated this conversation. Once.</p> <p>7 That's all you need to tell me. Tell me once</p> <p>8 and that's it. I'm with you, I heard you.</p> <p>9 Q. And other than the Russian</p> <p>10 architect/designer who prepared the brochure</p> <p>11 and other than Mr. Calderon are you aware of</p> <p>12 Mr. Voronchenko hiring any other interior</p> <p>13 designers for the apartment?</p> <p>14 A. Absolutely.</p> <p>15 Q. Who was that?</p> <p>16 A. He went to France and he went to</p> <p>17 Italy and he shopped all over the place.</p> <p>18 Q. So which interior --</p> <p>19 A. I have no idea. He went to</p> <p>20 France. He got me a French designer, I don't</p> <p>21 from where. Some ideas from France. He went</p> <p>22 to Italy, got me an Italian designer from</p> <p>23 Italy, but never met, never spoke, but I know</p> <p>24 Vladimir had that intention. So good luck,</p> <p>25 why not? The more the merrier. It is fine</p>	<p style="text-align: right;">Page 72</p> <p>1 G. Hayden</p> <p>2 also a French designer whose name you don't</p> <p>3 know, and Italian designer that you don't</p> <p>4 know. Were there any other interior</p> <p>5 decorators or designers that were involved in</p> <p>6 the project, to your knowledge?</p> <p>7 MR. McKEE: Objection to form.</p> <p>8 A. Not that I know of, really not,</p> <p>9 no.</p> <p>10 Q. At any time that you were working</p> <p>11 on the project, did you come to understand</p> <p>12 that Triarch was also working on the project?</p> <p>13 A. I told you not to mention that</p> <p>14 name.</p> <p>15 Q. Yes.</p> <p>16 A. I mean that.</p> <p>17 Q. I understand it is your strong</p> <p>18 preference that I not mention that name, but I</p> <p>19 thought that I explained to you earlier that I</p> <p>20 have a job to do here today, which is to ask</p> <p>21 certain questions. And I am going to have to</p> <p>22 use that name, unfortunately.</p> <p>23 A. Don't do that. The answer is</p> <p>24 absolutely without a doubt, ever, ever heard</p> <p>25 or seen anything referenced, related to that</p>
<p style="text-align: right;">Page 71</p> <p>1 G. Hayden</p> <p>2 with me. The more he gets, the better the</p> <p>3 apartment is going to look. I understand.</p> <p>4 I'm not an egomaniac, I'm just an architect.</p> <p>5 Okay, fine. Bring whoever you want, it is</p> <p>6 fine with me.</p> <p>7 They went to France, they went to</p> <p>8 Italy, he got me brochures, he got me copies,</p> <p>9 he got me furniture, he got me everything he</p> <p>10 wanted to have in the apartment. He was very</p> <p>11 interested in his apartment. There's nothing</p> <p>12 wrong with that.</p> <p>13 Q. And do you know what the name of</p> <p>14 the Italian was?</p> <p>15 A. No, did not, did not.</p> <p>16 Q. Am I correct then that the only</p> <p>17 names of designers that you're aware of</p> <p>18 Mr. Voronchenko actually hiring for this</p> <p>19 project is the Russian designer, and Pepe</p> <p>20 Calderon?</p> <p>21 MR. ISRAEL: Objection.</p> <p>22 MR. McKEE: Objection.</p> <p>23 A. Yes, I'm aware of these two</p> <p>24 people, and those two entities, and that's it.</p> <p>25 Q. You said you're aware there was</p>	<p style="text-align: right;">Page 73</p> <p>1 G. Hayden</p> <p>2 name that you just mentioned. Ever. Okay.</p> <p>3 Q. So just to be crystal clear,</p> <p>4 because I want to make sure that I am not</p> <p>5 getting this wrong --</p> <p>6 A. No, you're not.</p> <p>7 Q. -- while you're working on the</p> <p>8 project you never had any knowledge or</p> <p>9 understanding that Triarch was also working on</p> <p>10 the project, is that correct?</p> <p>11 MR. ISRAEL: Objection.</p> <p>12 MR. McKEE: Occasion.</p> <p>13 A. I have absolutely no idea who</p> <p>14 these people are, ever.</p> <p>15 Q. Thank you.</p> <p>16 A. You're welcome. Ever. Remember</p> <p>17 this is under oath, it is not a joke. Ever</p> <p>18 heard that name before.</p> <p>19 Q. Okay, how about separate and</p> <p>20 apart from the project, am I correct that you</p> <p>21 never heard of the Triarch group?</p> <p>22 A. In what capacity?</p> <p>23 Q. In any capacity?</p> <p>24 A. As designers in the country? In</p> <p>25 town? No, never heard of those people before.</p>

19 (Pages 70 to 73)

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1 G. Hayden  
2 I don't know who they are.  
3 Q. Okay.  
4 A. Okay?  
5 Q. Did Mr. Voronchenko ever tell you  
6 he liked the Art Deco style?  
7 A. Oh, absolutely, yeah. This is  
8 what we did. This is exactly what he got, Art  
9 Deco, 100 percent. Oh, yes, he did say that.  
10 Q. Did he say that in beginning of  
11 the project?  
12 A. Yeah, yeah, he did say that.  
13 Q. Other than what you testified to  
14 today, did he say anything else to you about  
15 what kind of style or aesthetic he was looking  
16 for in the amount?  
17 A. He gave me 8-1/2 by 11 cuts of  
18 some furniture that is totally Art Deco and I  
19 said, go to Joya, go to Bloomingdale's. You  
20 don't have to go to Chicago, go around the  
21 corner and you'll find the same furniture  
22 you're looking for, if that's what you want.  
23 It is not really to my liking, but who cares.  
24 Yeah, he really does like the Art Deco style,  
25 I mean --

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1 G. Hayden  
2 Q. And turning your attention to  
3 that initial meeting with Mr. Voronchenko at  
4 the apartment what, if anything, did  
5 Mr. Voronchenko say about creating a library  
6 in the apartment?  
7 A. I did the library for him. I  
8 gave him the library he wanted.  
9 Q. I apologize. I interrupted you.  
10 A. Not just the library, it is his  
11 office. He wants his books, like he's saying  
12 he's got lots of books, and he wants me to  
13 design a place where he can sit and read the  
14 books. So that's easy.  
15 Q. And did he say that to you at  
16 that initial meeting?  
17 A. I don't really think so. I think  
18 it just came about in a design philosophy that  
19 the living room and one of the bedrooms should  
20 be -- yeah, he did say that as a matter of  
21 fact, knowing how he thinks. Yeah, he did say  
22 that. He said, can you take this wall down?  
23 And I said, why? And he said, because then  
24 you connect wall to wall into one space, then  
25 you need a pocket door if you're going to take

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1 G. Hayden  
2 the wall down, you don't want swinging doors.  
3 So that means I just can't take the wall down,  
4 I got to build a wall in front of the wall,  
5 put a pocket in between, and explained the  
6 whole thing. So that's a good idea. So you  
7 can take the wall down. I can take the wall  
8 down. That's how the library concept came  
9 about. He obviously has lots of books.  
10 Q. And putting pocket doors in  
11 between the living room and the library was  
12 your idea?  
13 A. Absolutely, yes. Without a  
14 doubt, up front. It is not easy to do. But  
15 what's the big deal, what is it? What are  
16 pocket doors? You need to know there is no  
17 windows there. You know what I'm saying?  
18 There is a space that you can have a pocket  
19 door, you're not breaking a window line.  
20 Q. It is an interior wall?  
21 A. It is a very architectural thing  
22 to do, just to make sure the amount  
23 interfering with the moulding of the window,  
24 you're not breaking into the glass with the  
25 new wall coming in front of the other wall,

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1 G. Hayden  
2 and the pocket can function, can work. It's  
3 very important stuff. Because when you do  
4 that this means now you connect the living  
5 room to another space, "the library". That's  
6 what it is going to be.  
7 So this design concept is really  
8 important. Not only do you have a foyer  
9 leading into the dining room, to the living  
10 room and now to a library, so you have one  
11 contiguous space, that's very nice, very  
12 appealing. So he liked that. That's why I  
13 get paid to do it anyway. What else do you  
14 get paid for, right?  
15 Q. And then was there anything else  
16 discussed at that initial meeting, other than  
17 what you already testified to here today?  
18 MR. ISRAEL: Objection.  
19 MR. McKEE: I'll object too. You  
20 may want to clarify the question  
21 because he's talking about a lot of  
22 stuff, because it seems that you're  
23 going back and forth between initial  
24 meeting and at any time.  
25 MR. MANDEL: I apologize to the

20 (Pages 74 to 77)

<p style="text-align: right;">Page 78</p> <p>1 G. Hayden</p> <p>2 extent that's confusing to you,</p> <p>3 Mr. Hayden. Why don't I reformulate</p> <p>4 that specific question.</p> <p>5 Q. At that initial meeting, where</p> <p>6 you and Mr. Voronchenko met at the apartment,</p> <p>7 was there any discussion about a budget for</p> <p>8 the project?</p> <p>9 A. No.</p> <p>10 Q. At that meeting, was there any</p> <p>11 discussion about a timeline for the project?</p> <p>12 A. He didn't really say that. I</p> <p>13 think I did. I said, how long do you think</p> <p>14 it's going to take to do the construction for</p> <p>15 this? I don't think he had any clue. He had</p> <p>16 no idea. I don't think he really cared. I</p> <p>17 didn't think he cared. How long it is going</p> <p>18 to take as long as you get it done, I'm fine</p> <p>19 with it. I don't think he cared.</p> <p>20 Q. Turning your attention away from</p> <p>21 that initial meeting, was there any point in</p> <p>22 time, any discussion between you and</p> <p>23 Mr. Voronchenko about the budget for the</p> <p>24 project?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 80</p> <p>1 G. Hayden</p> <p>2 MR. ISRAEL: Objection.</p> <p>3 A. No, no, no.</p> <p>4 MR. ISRAEL: Give me a second to</p> <p>5 just insert my objection. Just take a</p> <p>6 pause before you answer so I can just</p> <p>7 say objection if necessary, please.</p> <p>8 THE WITNESS: Okay.</p> <p>9 Q. At any point in time, in your</p> <p>10 mind, did you have an understanding as to how</p> <p>11 much the project was going to cost?</p> <p>12 A. No, I did not.</p> <p>13 Q. How much did the project cost?</p> <p>14 A. Do you really want to know that?</p> <p>15 Ask the client, he'll tell you. Maybe that</p> <p>16 really should come from the contractors,</p> <p>17 because there are so many different</p> <p>18 subcontractors that got involved. I don't</p> <p>19 know what the final analysis was all about.</p> <p>20 MR. McKEE: So you don't know?</p> <p>21 THE WITNESS: No, I really don't.</p> <p>22 MR. McKEE: Then that's your</p> <p>23 answer.</p> <p>24 Q. You should not guess at any point</p> <p>25 today. I want to be clear. I'm only asking</p>
<p style="text-align: right;">Page 79</p> <p>1 G. Hayden</p> <p>2 MR. ISRAEL: Objection.</p> <p>3 A. No.</p> <p>4 MR. McKEE: At any point in time?</p> <p>5 Q. At any point.</p> <p>6 A. At any point in time, never,</p> <p>7 ever. The concept of how much the job is</p> <p>8 going to cost was never discussed with the</p> <p>9 client, ever. Special price, you know what</p> <p>10 I'm saying, one of those projects. You gets</p> <p>11 clients like that all the time. It is not a</p> <p>12 bit clear. You go to their house in</p> <p>13 Southampton you have no idea where the money</p> <p>14 goes.</p> <p>15 Q. Was it your understanding that</p> <p>16 Mr. Voronchenko wasn't concerned with the cost</p> <p>17 of the project?</p> <p>18 A. I didn't say that.</p> <p>19 Q. Okay.</p> <p>20 A. I didn't say that. His money is</p> <p>21 in his pocket. I'm not interested. If the</p> <p>22 project moves and he's happy, he's happy.</p> <p>23 Q. Was it your understanding that</p> <p>24 there was a ceiling or limit on how much can</p> <p>25 be spent on the renovation?</p>	<p style="text-align: right;">Page 81</p> <p>1 G. Hayden</p> <p>2 for what you know. If you don't know</p> <p>3 something you should tell me, I don't know.</p> <p>4 But you shouldn't guess at any point today.</p> <p>5 A. Well, I did not guess before, and</p> <p>6 I'm not going to guess now.</p> <p>7 Q. Do you have any understanding of</p> <p>8 the range of what the total project cost was?</p> <p>9 A. I do not.</p> <p>10 Q. Do you know if it was more than</p> <p>11 \$5 million?</p> <p>12 A. No, I do not.</p> <p>13 Q. Do you know if it was more than</p> <p>14 \$10 million?</p> <p>15 A. Why did you say more and not</p> <p>16 less?</p> <p>17 Q. Do you know if it was more or</p> <p>18 less than \$10 million?</p> <p>19 A. That's a pretty big number. I</p> <p>20 mean, it cannot be \$10 million. Nobody would</p> <p>21 spend \$10 million on this.</p> <p>22 Q. So it was less then \$10 million,</p> <p>23 is that correct?</p> <p>24 A. Yes, it was.</p> <p>25 Q. Was it less than \$5 million?</p>

21 (Pages 78 to 81)

<p style="text-align: right;">Page 82</p> <p>1 G. Hayden</p> <p>2 A. I wouldn't know that.</p> <p>3 Q. Did you ever have any discussion</p> <p>4 about the budget, at any point in time with</p> <p>5 any person other than Mr. Voronchenko?</p> <p>6 A. No, not really.</p> <p>7 Q. You never discussed the budget</p> <p>8 with Mr. Braderman, is that correct?</p> <p>9 A. No, no.</p> <p>10 Q. Did you ever communicate with</p> <p>11 Mr. Braderman?</p> <p>12 A. Yes, I have.</p> <p>13 Q. And did you understand</p> <p>14 Mr. Braderman to be working for</p> <p>15 Mr. Voronchenko?</p> <p>16 MR. ISRAEL: Objection.</p> <p>17 A. Yes, I understood that.</p> <p>18 Q. And did you understand</p> <p>19 Mr. Braderman to be working for Medallion?</p> <p>20 A. Yes, I understood that.</p> <p>21 Q. And did you ever have any</p> <p>22 discussion with anyone else at Medallion about</p> <p>23 the project?</p> <p>24 MR. McKEE: Objection.</p> <p>25 MR. ISRAEL: Objection.</p>	<p style="text-align: right;">Page 84</p> <p>1 G. Hayden</p> <p>2 It is not in his contract. It</p> <p>3 was not essential, it was not necessary. It</p> <p>4 was like faith, you know, there's an</p> <p>5 apartment, go do it. It is not intended to go</p> <p>6 to the degree of misrepresentation and what</p> <p>7 have you. A tiny little job, do it.</p> <p>8 No, the answer is, no. There is</p> <p>9 absolutely no relationship for the timeline</p> <p>10 which is normally standard in an architect's</p> <p>11 agreement. That goes into timing. In this</p> <p>12 case there was no timing. Okay? There was no</p> <p>13 timing. It is not verbal. It would be in</p> <p>14 writing. Nothing is verbal here.</p> <p>15 Q. So am I correct then that it is a</p> <p>16 custom in the architectural industry if there</p> <p>17 is a deadline in the project that that</p> <p>18 deadline would be included in the contract</p> <p>19 between the client and the architect.</p> <p>20 MR. ISRAEL: Objection.</p> <p>21 MR. McKEE: Objection.</p> <p>22 MR. ISRAEL: He's not an expert</p> <p>23 witness.</p> <p>24 (Question read.)</p> <p>25 MR. McKEE: Objection.</p>
<p style="text-align: right;">Page 83</p> <p>1 G. Hayden</p> <p>2 A. No, I did not.</p> <p>3 Q. Turning back to the timeline</p> <p>4 again for a second. I believe earlier you</p> <p>5 testified that at that initial meeting you</p> <p>6 asked Mr. Voronchenko what his thoughts were</p> <p>7 on the timeline, is that correct?</p> <p>8 A. I didn't ask him that.</p> <p>9 Q. You did not ask him that?</p> <p>10 A. No.</p> <p>11 Q. At any point in time, did you</p> <p>12 discuss the timeline for the project with</p> <p>13 Mr. Voronchenko?</p> <p>14 A. The sooner the better. I mean,</p> <p>15 obviously, no -- you see, when you discuss</p> <p>16 that it goes in my contract, it is reflected</p> <p>17 right in one of the paragraphs, okay, any time</p> <p>18 required this and that and the other thing.</p> <p>19 Beyond that I'm going to charge you more</p> <p>20 money.</p> <p>21 If you go beyond six months</p> <p>22 making up your mind, you're going to be hit</p> <p>23 with money. If the project goes on after a</p> <p>24 year or so then you have to start all over.</p> <p>25 None of that was mentioned.</p>	<p style="text-align: right;">Page 85</p> <p>1 G. Hayden</p> <p>2 A. Well, it is, it is definitely</p> <p>3 important to be included, because that can be</p> <p>4 very damaging if we didn't deliver on time,</p> <p>5 okay? Very damaging. And in generally what</p> <p>6 it says is, architect will make the best</p> <p>7 effort in producing in a timely manner these</p> <p>8 documents.</p> <p>9 That does not go without saying</p> <p>10 that the contractor will do the same in</p> <p>11 producing a set of documents in a timely</p> <p>12 manner. It goes without saying the architect</p> <p>13 will do that.</p> <p>14 But if you would come in and put</p> <p>15 a timeline, make me sign the dotted line, I'll</p> <p>16 do that for you. But if that passes that</p> <p>17 time, then it will be another phrase right</p> <p>18 after that.</p> <p>19 Q. So am I correct then that it is</p> <p>20 the custom in the architecture business to</p> <p>21 include any firm deadlines in the written</p> <p>22 contract between the architect and the client?</p> <p>23 MR. McKEE: Objection.</p> <p>24 MR. ISRAEL: Objection.</p> <p>25 A. Customary, quite honestly, not</p>

22 (Pages 82 to 85)

<p style="text-align: right;">Page 86</p> <p>1 G. Hayden</p> <p>2 really. As I said, if you're borrowing money</p> <p>3 from a bank and the bank is on your case, then</p> <p>4 you are going to make sure the documents are</p> <p>5 produced so you can get financing. Normally</p> <p>6 it goes without saying that we're not here to</p> <p>7 hinder it for you. So it is not necessary to</p> <p>8 bring it up. So I'm talking like millions of</p> <p>9 dollars of construction. Not a stupid</p> <p>10 apartment, excuse the language.</p> <p>11 So this guy comes in and he says,</p> <p>12 I want you to do this in two, three months, I</p> <p>13 would never even go there because if I spent</p> <p>14 too much time on this. It is not going to be</p> <p>15 good for my office either.</p> <p>16 The sooner the better, that's</p> <p>17 what he said. The sooner the better, so there</p> <p>18 is no time limitation on the project. Okay.</p> <p>19 Q. At any point in time, did anyone</p> <p>20 express dissatisfaction with the progress that</p> <p>21 was being made on the project?</p> <p>22 MR. ISRAEL: Objection.</p> <p>23 MR. McKEE: Objection. It is</p> <p>24 kind of in a vacuum. Satisfaction with</p> <p>25 his work, anybody's work?</p>	<p style="text-align: right;">Page 88</p> <p>1 G. Hayden</p> <p>2 Q. No, I didn't say that. I'm</p> <p>3 asking if anyone said that to you?</p> <p>4 A. No, no, absolutely not.</p> <p>5 Q. Okay. And other than the</p> <p>6 contractors perhaps being a little too slow,</p> <p>7 are you aware of anyone associated with</p> <p>8 Medallion criticizing the speed of the project</p> <p>9 in any other respect?</p> <p>10 MR. ISRAEL: Objection.</p> <p>11 A. The project is moving slowly they</p> <p>12 said. The project is moving slowly. What is</p> <p>13 that supposed to mean?</p> <p>14 Q. Who said that?</p> <p>15 A. The contractors even said that.</p> <p>16 We're just moving slowly. Every decision and</p> <p>17 every document and every piece of information</p> <p>18 has to come from overseas. The installation,</p> <p>19 the fabrication, and the people come from</p> <p>20 overseas. That's why it slowed down the</p> <p>21 process a little bit. But there was no</p> <p>22 complaint from the client like, hey, listen,</p> <p>23 how come the job is not done? Nobody said</p> <p>24 that. They're patient, you know, you do it</p> <p>25 right and you finish it. That's it.</p>
<p style="text-align: right;">Page 87</p> <p>1 G. Hayden</p> <p>2 Q. Let me rephrase it.</p> <p>3 MR. ISRAEL: Do you mean to him</p> <p>4 as opposed to just anyone else?</p> <p>5 Q. At any point in time, did anyone</p> <p>6 associated with Medallion, including</p> <p>7 Mr. Voronchenko or Mr. Braderman, express to</p> <p>8 you their dissatisfaction with the speed in</p> <p>9 which the project was proceeding?</p> <p>10 A. You're referring to the architect</p> <p>11 documents or the construction crew?</p> <p>12 Q. Any part of the project.</p> <p>13 A. Well, to a certain point they</p> <p>14 said the contractors are a little bit slow,</p> <p>15 you know. It is not something I never heard</p> <p>16 before. So try to speed up, talk to the</p> <p>17 contractor, I will see if they need something</p> <p>18 from the architect or no. If they do, supply</p> <p>19 it.</p> <p>20 Q. At any point in time, did anyone</p> <p>21 ever say that you were proceeding too slowly</p> <p>22 with the project?</p> <p>23 A. Me?</p> <p>24 Q. Yes.</p> <p>25 A. How dare you say that?</p>	<p style="text-align: right;">Page 89</p> <p>1 G. Hayden</p> <p>2 Q. When was the project complete?</p> <p>3 A. He wanted me to see it, eight</p> <p>4 months ago, something like that. Eight months</p> <p>5 ago, and I went there.</p> <p>6 Q. So the fall of 2011?</p> <p>7 A. I can't say, but I did go up</p> <p>8 there and take a look. I did look at it.</p> <p>9 Q. How did it look?</p> <p>10 A. It looks great. You want</p> <p>11 pictures?</p> <p>12 Q. Do you have pictures?</p> <p>13 A. I might, yeah.</p> <p>14 RQ Q. We would like to see those</p> <p>15 pictures, so we'd ask that you go ahead and</p> <p>16 produce them.</p> <p>17 A. I might. They're probably still</p> <p>18 not developed and still in the camera.</p> <p>19 Q. But you took some pictures?</p> <p>20 A. I may have taken a couple of,</p> <p>21 yeah, sure, it is very nice. Very nice and</p> <p>22 appealing. In fact, you can ask the client,</p> <p>23 he'll send me as many pictures as you want.</p> <p>24 Q. Does the client have photos as</p> <p>25 well?</p>

23 (Pages 86 to 89)



<p style="text-align: right;">Page 90</p> <p>1 G. Hayden</p> <p>2 A. I hope so.</p> <p>3 MR. ISRAEL: Objection.</p> <p>4 A. After all this. I mean, he</p> <p>5 probably goes to sleep with the photos.</p> <p>6 MR. ISRAEL: Actually he doesn't.</p> <p>7 THE WITNESS: He doesn't like it?</p> <p>8 MR. ISRAEL: He doesn't have</p> <p>9 photos.</p> <p>10 THE WITNESS: Okay, I'll go take</p> <p>11 photos for you. Serious.</p> <p>12 Q. Were Mr. Voronchenko and his wife</p> <p>13 going to move into the apartment full time?</p> <p>14 MR. ISRAEL: Objection. If you</p> <p>15 know the answer you can answer it.</p> <p>16 Don't speculate.</p> <p>17 A. I don't really know if they're</p> <p>18 going to move in full time.</p> <p>19 Q. Were they renting an apartment</p> <p>20 somewhere else in New York?</p> <p>21 A. Not that I know -- I don't know.</p> <p>22 He's in and out of New York like a light. So</p> <p>23 you don't really know if he's living in</p> <p>24 New York or not.</p> <p>25 Q. So you don't know if he had an</p>	<p style="text-align: right;">Page 92</p> <p>1 G. Hayden</p> <p>2 MR. ISRAEL: Let him ask the</p> <p>3 question before you answer.</p> <p>4 THE WITNESS: Okay, sorry.</p> <p>5 Q. Did you also speak to</p> <p>6 Mr. Voronchenko a number of times over</p> <p>7 telephone in connection with this project?</p> <p>8 A. Never did.</p> <p>9 Q. You never spoke to him on the</p> <p>10 phone?</p> <p>11 A. No.</p> <p>12 Q. Would you talk to anyone else on</p> <p>13 the phone in connection with the project?</p> <p>14 A. Yes, this Garry Braderman.</p> <p>15 Q. Anyone other than Braderman?</p> <p>16 A. The contractors, of course, on</p> <p>17 the job.</p> <p>18 Q. And who were the contractors</p> <p>19 other than Dragan?</p> <p>20 A. His brother.</p> <p>21 Q. What was Dragan's brother's name?</p> <p>22 A. Senisha.</p> <p>23 Q. Could you spell that for us?</p> <p>24 A. S E N I S H A.</p> <p>25 Q. Did you talk to any other</p>
<p style="text-align: right;">Page 91</p> <p>1 G. Hayden</p> <p>2 apartment here?</p> <p>3 A. No, no, no idea, no.</p> <p>4 Q. But Mr. Voronchenko never said to</p> <p>5 you, hey, it is really important we get this</p> <p>6 done quickly because my wife and I would like</p> <p>7 to move here?</p> <p>8 A. No, he never said that.</p> <p>9 Q. How many times did you meet with</p> <p>10 Mr. Voronchenko in connection with the</p> <p>11 project?</p> <p>12 A. You'd be surprised. Twice.</p> <p>13 Q. And the first time was that</p> <p>14 initial meeting at the apartment?</p> <p>15 A. Yes.</p> <p>16 Q. And when was the second time?</p> <p>17 A. Maybe like three, four months</p> <p>18 later.</p> <p>19 Q. Where was that meeting?</p> <p>20 A. In the apartment.</p> <p>21 Q. And had any work been done to the</p> <p>22 apartment --</p> <p>23 A. No.</p> <p>24 Q. -- as of that date?</p> <p>25 A. No, no.</p>	<p style="text-align: right;">Page 93</p> <p>1 G. Hayden</p> <p>2 contractors on the phone?</p> <p>3 A. Another contractor working with</p> <p>4 Senisha and his brother, but I didn't really</p> <p>5 talk to him that much. Senisha and his</p> <p>6 brother is in charge, they were in charge,</p> <p>7 yeah.</p> <p>8 Q. I would like to turn your</p> <p>9 attention to Plaintiff's Exhibit Number 4.</p> <p>10 MR. MANDEL: For the record</p> <p>11 Plaintiff's Exhibit 4 has been Bates</p> <p>12 stamped GH 0162 through 65.</p> <p>13 MR. ISRAEL: I am pointing out</p> <p>14 the necessity of looking at the</p> <p>15 document and understand what it</p> <p>16 contains before you ask the witness</p> <p>17 questions so that way I'm not sitting</p> <p>18 here twiddling my thumbs unaware of</p> <p>19 what you're asking questions about. So</p> <p>20 you'll have to take time for me to</p> <p>21 review it and know what you're talking</p> <p>22 about.</p> <p>23 MR. MANDEL: The practice in this</p> <p>24 case has been that at the conclusion of</p> <p>25 the deposition the deposing lawyer</p>

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1 G. Hayden  
2 makes a copy of the exhibits that were  
3 actually used for the other lawyers.  
4 No other lawyer has tried to interfere  
5 with the questioning up until today.  
6 This practice has worked just fine.  
7 MR. ISRAEL: I'm not interfering  
8 with any question.  
9 MR. MANDEL: Let me finish and  
10 then you can speak whenever you want.  
11 Mr. Israel is now interfering with the  
12 questioning.  
13 This document was produced long  
14 ago by Garth Hayden. It is the  
15 agreement between Medallion and Garth  
16 Hayden. Mr. Israel should be familiar  
17 with this document and it is abundantly  
18 obvious that at this time he's just  
19 interfering with my deposition.  
20 MR. ISRAEL: Great,  
21 congratulations. I'm going to take my  
22 time understanding what it is that  
23 you're asking questions about before  
24 you ask questions. There is no  
25 question pending. If you don't like

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1 G. Hayden  
2 it, make copies of documents so I don't  
3 have to do this in the future. I  
4 prefer that myself.  
5 MR. MANDEL: So the record is  
6 clear, Mr. Israel did not make copies  
7 for me when he deposed my client last  
8 week. And I did not interfere with the  
9 deposition.  
10 Q. Mr. Hayden, do you recognize this  
11 document?  
12 A. I haven't seen it yet. You want  
13 to give me yours, I'll take it.  
14 Q. Mine has writing on it so I can't  
15 give it to you.  
16 MR. McKEE: Look at it first and  
17 make yourself comfortable with it  
18 before you answer the question.  
19 Q. Mr. Hayden, whenever I hand you a  
20 document today, take as much time as you need.  
21 The first question is a very general one.  
22 Do you recognize this document?  
23 A. Yes, I do.  
24 Q. What is this document?  
25 A. It is an agreement that I signed

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1 G. Hayden  
2 with Medallion, Inc. and Garry Braderman  
3 signed it at the other end, and I signed --  
4 where is my letterhead? What happened? You  
5 don't have letterhead? Where is the  
6 letterhead?  
7 Q. I don't know who that question is  
8 directed to.  
9 A. To you. Where did you get this?  
10 Q. This document is being handed to  
11 you in the same manner it was handed to me.  
12 It was handed to me in exactly this format.  
13 A. Really?  
14 Q. I too noticed there was no  
15 letterhead on the top, and I don't know if  
16 there was ever letterhead on it. As far as I  
17 am aware, it came from your files.  
18 A. Really? Interesting.  
19 Q. And on the last page of this  
20 document, is that your signature?  
21 A. Yes.  
22 Q. And is that Mr. Braderman's  
23 signature?  
24 A. Yes.  
25 Q. Did you perform all of your

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1 G. Hayden  
2 obligations on this agreement?  
3 MR. McKEE: Objection.  
4 A. Yeah, I did.  
5 Q. Did Medallion perform all their  
6 obligations under this agreement?  
7 A. I believe so, yeah. Sure.  
8 Q. Am I correct that you provided a  
9 draft of this agreement to Medallion?  
10 A. Why would it be a draft?  
11 Q. Well, that's what I was leading  
12 up to. Was there any negotiation surrounding  
13 this agreement?  
14 A. No, just over the phone once and  
15 for all, here it is. No, there is no  
16 negotiation, what are you negotiating?  
17 Q. So Medallion didn't ask you to  
18 edit or modify any of the provision in this  
19 agreement?  
20 A. They may have presented it to  
21 somebody and they may have come up with the  
22 changes. Not to my knowledge. No, they just  
23 take it at face value, this is it.  
24 Q. On the first page of the document  
25 under Schematic Design it states, "We shall

25 (Pages 94 to 97)

<p style="text-align: right;">Page 98</p> <p>1 G. Hayden 2 prepare a set of documents reflecting the 3 existing conditions and proposed apartment 4 layout." Did you do that? 5 A. Yes. 6 Q. Under the Second Phase, Design 7 Development it says, "The architect shall 8 prepare design development documents 9 consisting of drawings and other documents to 10 fix and describe the size and character of the 11 components of the project as to architectural 12 materials and finishes." Did you do that? 13 A. Yes. 14 Q. Under Phase Three it states, "The 15 architect shall prepare construction documents 16 consisting of drawings and specifications 17 setting forth in detail the requirements of 18 the construction of the project." Did you do 19 that? 20 A. Yes. 21 Q. Under Phase Four it says that you 22 "shall assist the owner in obtaining bids or 23 negotiated proposals and assist in awarding 24 and preparing contracts for construction." 25 Did you do that?</p>	<p style="text-align: right;">Page 100</p> <p>1 G. Hayden 2 at? 3 A. 45. 4 Q. It started at 45 and then they 5 negotiated you down the 32,500? 6 A. Whatever. 7 Q. Is that correct? 8 A. Something like that. 9 Q. They ultimately wind up paying 10 you \$45,000? 11 A. Something like that. 12 Q. And why did you agree to lower 13 your fee for Medallion? 14 A. I didn't. I mean, remember, this 15 is 515 Park, it is a nice address. Okay? So 16 it can lead to a bigger job maybe? You never 17 know. It is not a dump. You take a job like 18 that it adds to your credentials to some 19 extent. This is a very expensive apartment. 20 Okay. 21 Q. And did Medallion always make its 22 payments in a timely fashion? 23 A. Absolutely, absolutely. 24 Q. If you had agreed to a fee of 25 \$32,500, why did Medallion ultimately pay you</p>
<p style="text-align: right;">Page 99</p> <p>1 G. Hayden 2 A. Well, I guess he did that on his 3 own. He did that on his own. But if he did 4 ask for my professional opinion I would not 5 have denied it based on the contract. But he 6 did it on his own. So it is just as good. 7 Q. How much did Medallion pay you 8 for your services on the project? 9 MR. McKEE: In total? 10 A. In total? 11 Q. In total. 12 A. 45,000. 13 Q. And turning your attention to the 14 bottom of page 163, it says a fixed fee of 15 30,000? 16 A. 32. 17 Q. Excuse me. \$32,500 would be 18 charged. Is this a standard fee for you. 19 MR. McKEE: Objection. 20 A. Actually it is low, but that's 21 low. But you know what, it is what it is. 22 Q. Did you negotiate the fee with 23 Medallion? 24 A. Yeah, it came down a few dollars. 25 Q. Do you remember where it started</p>	<p style="text-align: right;">Page 101</p> <p>1 G. Hayden 2 \$45,000? 3 A. Obviously there are changes, 4 additional services. You should read. 5 Additional services, things that were done 6 above and beyond the contract documents. 7 Additional services, amendments, changes. 8 Once the drawings are submitted any changes 9 after that they are billed separately, and the 10 amendments filed with the Buildings Department 11 are billed separately. That's the extent. 12 Not site visits. Architects 13 charged to go up there one more time. You 14 only give three visits. You go to 15 number four, and it is \$5,000. No, I don't do 16 that. But there are changes that are 17 legitimate changes, you run them by you, if 18 you agree, that's it. That's why they pay a 19 little bit more. Not to go back to the 20 original fees. What you're thinking, he got 21 his 45,000 anyway. No, it doesn't work like 22 that. 23 Q. I believe you said if there are 24 changes made after the drawings are submitted 25 then there are additional fees, is that</p>

26 (Pages 98 to 101)

<p style="text-align: right;">Page 102</p> <p>1 G. Hayden</p> <p>2 correct?</p> <p>3 A. That's absolutely correct.</p> <p>4 Q. You're referring to submission to</p> <p>5 the Department of Buildings, is that correct?</p> <p>6 A. Well, that's part of it,</p> <p>7 submission of the Department of Buildings is</p> <p>8 part of it. But what you are submitting is</p> <p>9 not why you are submitting, what you are</p> <p>10 submitting and how much time does it need for</p> <p>11 you to make this change possible for anyone to</p> <p>12 understand, and send it to the job site.</p> <p>13 Obviously file it so it doesn't get stopped</p> <p>14 with a violation. It is all one of the same.</p> <p>15 Okay? It is all one of the same.</p> <p>16 Q. Did Medallion request more</p> <p>17 changes to the construction drawings than a</p> <p>18 typical client requested?</p> <p>19 MR. McKEE: Objection to form.</p> <p>20 MR. ISRAEL: Objection.</p> <p>21 A. More than any typical client?</p> <p>22 No, as a matter of fact, a lot less. They</p> <p>23 were very nice and really to the point.</p> <p>24 Q. So were there fewer changes in</p> <p>25 this case to the drawings than there is the</p>	<p style="text-align: right;">Page 104</p> <p>1 G. Hayden</p> <p>2 you by Pepe Calderon, is that correct?</p> <p>3 MR. ISRAEL: Objection.</p> <p>4 MR. McKEE: Objection to form. I</p> <p>5 don't know if that was the exclusive</p> <p>6 universe of what he just said but --</p> <p>7 A. Yes, yes, that is definitely the</p> <p>8 case. Why would I sit there and do drawings</p> <p>9 for you, for what? Obviously the changes that</p> <p>10 occurred need to be taken care of, and we did</p> <p>11 that. You're entitled to money. They're</p> <p>12 saying we're not entitled?</p> <p>13 Q. Turning your attention to</p> <p>14 page GH 164.</p> <p>15 A. Okay.</p> <p>16 Q. Under paragraph 8, Time, "The</p> <p>17 architect shall perform his services as</p> <p>18 expeditiously as is consistent with</p> <p>19 professional skill and care and the orderly</p> <p>20 progress of the work." Did you do that?</p> <p>21 A. Of course.</p> <p>22 Q. Turning your attention to</p> <p>23 paragraph 11, Ownership And Use of Documents.</p> <p>24 A. Right.</p> <p>25 Q. "Drawings, schedules and</p>
<p style="text-align: right;">Page 103</p> <p>1 G. Hayden</p> <p>2 typical project?</p> <p>3 MR. McKEE: Objection.</p> <p>4 MR. ISRAEL: Objection.</p> <p>5 A. Fewer changes than a typical</p> <p>6 project. Well, I don't know if you're aware</p> <p>7 of the fact that they got an interior</p> <p>8 designer, you don't expect changes that are --</p> <p>9 Q. I don't understand your answer to</p> <p>10 that.</p> <p>11 A. The answer is, there are changes</p> <p>12 because the designers came after the architect</p> <p>13 and had some concepts that needed to be</p> <p>14 incorporated into the architectural. So far</p> <p>15 you wrote that.</p> <p>16 What it means now is the</p> <p>17 architectural set has to change to show what</p> <p>18 the intent and the design and finished product</p> <p>19 would look like. So these are changes that</p> <p>20 somebody has to make, all right? So these are</p> <p>21 the changes that occurred during this process.</p> <p>22 Q. You had to charge Medallion above</p> <p>23 and beyond the 32,500 contract amount because</p> <p>24 you had to do additional work to modify your</p> <p>25 drawings to reflect the designs provided to</p>	<p style="text-align: right;">Page 105</p> <p>1 G. Hayden</p> <p>2 specifications as instruments of service are</p> <p>3 and shall remain the sole and exclusive</p> <p>4 property of the architect, whether the project</p> <p>5 for which they are prepared is executed or</p> <p>6 not."</p> <p>7 Is that a standard term in all of</p> <p>8 your agreements?</p> <p>9 MR. ISRAEL: Objection. Calls</p> <p>10 for an expert conclusion, calls for a</p> <p>11 legal conclusion. You can answer.</p> <p>12 A. Yes. The answer is, yes. I</p> <p>13 mean, there is no reason for you to have</p> <p>14 access to the documents after the project is</p> <p>15 complete. Drawings are mine, you can't touch</p> <p>16 them. You cannot touch them.</p> <p>17 Q. And did Medallion try and</p> <p>18 renegotiate that term with you?</p> <p>19 A. Why would they do that?</p> <p>20 Q. I don't know why they would or</p> <p>21 wouldn't. I'm just curious if they did.</p> <p>22 A. Then they would have taken it out</p> <p>23 of the agreement and just either crossed it</p> <p>24 out or tell me not to do this and I would say,</p> <p>25 what are you talking about?</p>

27 (Pages 102 to 105)

<p style="text-align: right;">Page 106</p> <p>1 G. Hayden</p> <p>2 Q. So Medallion never asked that</p> <p>3 term be changed?</p> <p>4 A. No.</p> <p>5 Q. And am I correct then that you</p> <p>6 would never copy another architect's work,</p> <p>7 because it is your understanding that</p> <p>8 architect's work belongs to that other</p> <p>9 architect, correct?</p> <p>10 A. Correct. You said copy one more</p> <p>11 time, you shouldn't do that.</p> <p>12 Q. In this particular case drawings</p> <p>13 were drawn in such a way to reflect the intent</p> <p>14 of Pepe Calderon's design, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And even though they were</p> <p>17 reflecting the intent of Mr. Calderon's</p> <p>18 designs you continued to own your drawings, is</p> <p>19 that correct?</p> <p>20 A. Absolutely.</p> <p>21 MR. ISRAEL: Objection.</p> <p>22 MR. McKEE: Objection.</p> <p>23 A. Yes, they are my drawings. They</p> <p>24 are not his drawings. They're not the</p> <p>25 interior decorator's drawings anymore. No,</p>	<p style="text-align: right;">Page 108</p> <p>1 G. Hayden</p> <p>2 Q. Does he work for Frankfurt Kurnit</p> <p>3 Klein and Selz.</p> <p>4 A. I have no idea. All I know is I</p> <p>5 got correspondence. I have no idea who he</p> <p>6 works for.</p> <p>7 Q. Who is Sergei Voronchenko?</p> <p>8 A. His son, never met him.</p> <p>9 Q. Sorry?</p> <p>10 A. It is his son, I never met him.</p> <p>11 Q. You never met him?</p> <p>12 A. No.</p> <p>13 Q. Was he involved with the project</p> <p>14 in any way?</p> <p>15 A. No, not to my knowledge.</p> <p>16 (Plaintiff's Exhibit 5, a</p> <p>17 statement from Garth Hayden Architect,</p> <p>18 dated August 11, 2008 Bates stamped</p> <p>19 GH 193 was marked for identification,</p> <p>20 as of this date.)</p> <p>21 (Plaintiff's Exhibit 6, a</p> <p>22 statement from Garth Hayden, dated</p> <p>23 July 27, 2009, Bates stamped GH 160 was</p> <p>24 marked for identification, as of this</p> <p>25 date.)</p>
<p style="text-align: right;">Page 107</p> <p>1 G. Hayden</p> <p>2 they're mine. In concept they're his, in</p> <p>3 actuality they're mine. I made those</p> <p>4 drawings, either me or Monica, one or the</p> <p>5 other. We made these drawings, they're mine.</p> <p>6 Q. Was this agreement ever amended</p> <p>7 in any way?</p> <p>8 A. No.</p> <p>9 Q. Was it ever modified in any way?</p> <p>10 A. No.</p> <p>11 Q. Did any party to this agreement</p> <p>12 waive any rights of this agreement in any way?</p> <p>13 MR. McKEE: Objection.</p> <p>14 MR. ISRAEL: Objection.</p> <p>15 A. No, not that I know, no.</p> <p>16 Q. How would Medallion pay you?</p> <p>17 A. Check from the attorney, a check</p> <p>18 came from the lawyer's office, I don't know</p> <p>19 who that lawyer is. But the checks were paid</p> <p>20 by a law firm essentially on his behalf. He</p> <p>21 calls the lawyers, send this architect</p> <p>22 whatever, and it comes in the following day.</p> <p>23 Q. Was that lawyer's name Robert</p> <p>24 Wise?</p> <p>25 A. Yes, it was.</p>	<p style="text-align: right;">Page 109</p> <p>1 G. Hayden</p> <p>2 MR. MANDEL: Mr. Israel has taken</p> <p>3 several minutes to look over the</p> <p>4 documents. I object again. It is</p> <p>5 clear he's intentionally interfering</p> <p>6 with this deposition. And I've already</p> <p>7 explained while off the record that it</p> <p>8 is going to take longer than a day to</p> <p>9 get this done if he persists in this</p> <p>10 manner.</p> <p>11 MR. McKEE: For the record, I</p> <p>12 think Mr. Israel took about 60 seconds,</p> <p>13 at most, just so he could look at these</p> <p>14 two pages so it is --</p> <p>15 MR. MANDEL: We can perceive that</p> <p>16 I disagree with your assessment as to</p> <p>17 how long it took.</p> <p>18 MR. ISRAEL: Waste more time.</p> <p>19 Ask a question.</p> <p>20 Q. Turning your attention to what</p> <p>21 has been marked as Exhibit 5, which is Bates</p> <p>22 stamped GH 161 --</p> <p>23 A. Okay.</p> <p>24 Q. -- do you recognize this</p> <p>25 document?</p>

28 (Pages 106 to 109)

<p style="text-align: right;">Page 110</p> <p>1 G. Hayden</p> <p>2 A. Yes, I do.</p> <p>3 Q. What is it?</p> <p>4 A. It is a statement, it is an</p> <p>5 invoice, it is a bill sent to the client.</p> <p>6 Q. That you sent to the client,</p> <p>7 correct?</p> <p>8 A. Yes, that I sent to the client,</p> <p>9 correct.</p> <p>10 Q. And on the bottom it says, as</p> <p>11 requested this statement replaced statement</p> <p>12 sent on June 27th, 2008.</p> <p>13 A. That's a shock. Why does that</p> <p>14 happen? I have no idea, but if it does say</p> <p>15 that then it is what it is.</p> <p>16 Q. Do you have any recollection of</p> <p>17 the June 27th, 2008 invoice?</p> <p>18 A. No, it is probably still on my</p> <p>19 computer. I probably can go find it. I don't</p> <p>20 know what that is. Do you have a copy of</p> <p>21 that?</p> <p>22 Q. I don't have a copy.</p> <p>23 A. I don't know how this happened</p> <p>24 either, I'm serious. Why would you do that?</p> <p>25 June 27th, 2008, this is all from</p>	<p style="text-align: right;">Page 112</p> <p>1 G. Hayden</p> <p>2 Exhibit 6, which is Bates stamped GH 0160, am</p> <p>3 I correct that this is a July 27th, 2009,</p> <p>4 invoice that you sent to Garry Braderman at</p> <p>5 Essex Management at LLC?</p> <p>6 A. Yes, it is.</p> <p>7 Q. Am I correct that this July 27th</p> <p>8 invoice was for work performed on 515 Park</p> <p>9 Avenue, the 21st floor?</p> <p>10 A. Yes, it is.</p> <p>11 Q. And was there a reason it was</p> <p>12 sent to Mr. Braderman at Essex Management as</p> <p>13 opposed to Mr. Braderman at Medallion?</p> <p>14 A. No, not really, no, not at all.</p> <p>15 If you look at his business card I guess it</p> <p>16 does say Essex Management and that's probably</p> <p>17 what we have on the index, computerized index,</p> <p>18 as Essex Management and not Medallion. So it</p> <p>19 prints it that way. The address is different</p> <p>20 too, look at that.</p> <p>21 Q. And was this July 27th, 2009</p> <p>22 invoice the final invoice that you sent to</p> <p>23 Medallion or Essex Management?</p> <p>24 A. Could be, yeah, I don't think I</p> <p>25 sent any additional invoices beyond that.</p>
<p style="text-align: right;">Page 111</p> <p>1 G. Hayden</p> <p>2 2008, so in my opinion, if you want to ask my</p> <p>3 opinion, the filing fee of 1,633.50 plus the</p> <p>4 microfilm may not have been incorporated on</p> <p>5 that previous bill, and that money went out of</p> <p>6 my pocket on your behalf. Okay? It is very</p> <p>7 possible. That I'm asking for the</p> <p>8 reimbursement that I missed it the first time.</p> <p>9 It happens all the time in my</p> <p>10 office. You have no idea how much money we</p> <p>11 lose because we don't pay attention to filing</p> <p>12 fees. It may have happened. I guarantee it,</p> <p>13 this statement did not include the filing</p> <p>14 fees. I can't say for sure, but I think that</p> <p>15 would be the difference. That we did not</p> <p>16 charge you for the money that we paid for you.</p> <p>17 So now you have to give it back to me</p> <p>18 essentially.</p> <p>19 Q. All right. I appreciate that.</p> <p>20 A. No problem. I will look at it</p> <p>21 for you.</p> <p>22 Q. Why was the amount due on this</p> <p>23 invoice less than the balance?</p> <p>24 A. Because the job is not done.</p> <p>25 Q. And turning your attention to</p>	<p style="text-align: right;">Page 113</p> <p>1 G. Hayden</p> <p>2 There is no work, that's it. Yeah, I would</p> <p>3 say so, yeah.</p> <p>4 (Plaintiff's Exhibit 7, a letter</p> <p>5 from Medallion, Inc. dated July 1,</p> <p>6 2008, Bates stamped GH 195 was marked</p> <p>7 for identification, as of this date.)</p> <p>8 Q. I've handed you what has been</p> <p>9 marked as Plaintiff's Exhibit 7. It is Bates</p> <p>10 stamped GH 195. Do you recognize this</p> <p>11 document?</p> <p>12 MR. McKEE: Hold on one second.</p> <p>13 Q. Do you recognize this document,</p> <p>14 Mr. Hayden?</p> <p>15 A. Yeah, I recognize the general</p> <p>16 view of the letterhead, yes. Yeah.</p> <p>17 Q. Was this document provided to the</p> <p>18 Department of Buildings?</p> <p>19 MR. McKEE: Objection. Just so</p> <p>20 we're clear, you're asking him about a</p> <p>21 letter that was produced by us but is</p> <p>22 neither addressed or copied to the</p> <p>23 client.</p> <p>24 MR. MANDEL: I object to the</p> <p>25 interruption. You can answer the</p>

29 (Pages 110 to 113)

<p style="text-align: right;">Page 114</p> <p>1 G. Hayden</p> <p>2 question.</p> <p>3 MR. McKEE: You're asking about a</p> <p>4 document that maybe has no connection</p> <p>5 to him.</p> <p>6 MR. MANDEL: Again, I object to</p> <p>7 the interruption for the second time.</p> <p>8 Q. You may answer the question,</p> <p>9 Mr. Hayden.</p> <p>10 MR. ISRAEL: I join in the</p> <p>11 objection, go ahead.</p> <p>12 A. I don't see the reason for this</p> <p>13 quite honestly. I think it is stupid. Why</p> <p>14 did he do this? Who did this?</p> <p>15 Q. I don't understand your question.</p> <p>16 Let me just rephrase. Let me reask my</p> <p>17 question one more time.</p> <p>18 A. Why would a client write a letter</p> <p>19 to the Buildings Department saying we're</p> <p>20 desperate for permits. Do you want a permit?</p> <p>21 Tell me, I'll get it for you. Is this a joke?</p> <p>22 I don't know what this is all about, I think</p> <p>23 it is silly.</p> <p>24 MR. McKEE: That's your answer.</p> <p>25 A. Yeah, fine.</p>	<p style="text-align: right;">Page 116</p> <p>1 G. Hayden</p> <p>2 said that to me at all. No.</p> <p>3 Q. Does this document in any way</p> <p>4 refresh your recollection as to whether anyone</p> <p>5 ever told you that Mr. Medallion was planning</p> <p>6 to relocate to New York City?</p> <p>7 MR. McKEE: Objection.</p> <p>8 Q. Let me rephrase that.</p> <p>9 A. There is no Mr. Medallion.</p> <p>10 Q. Earlier I asked you a series of</p> <p>11 questions about whether Mr. Voronchenko</p> <p>12 intended to move to New York. After seeing</p> <p>13 this document, is your memory any different as</p> <p>14 to whether anyone ever told you that</p> <p>15 Mr. Voronchenko intended to relocate to New</p> <p>16 York City?</p> <p>17 A. Well, you know, you would</p> <p>18 consider that possibility as being true,</p> <p>19 because he's doing that as a business venture.</p> <p>20 He's so involved with this apartment,</p> <p>21 obviously he'd want to live in it. Not to</p> <p>22 create a museum for his pieces, which he did</p> <p>23 any way.</p> <p>24 MR. ISRAEL: Move to strike.</p> <p>25 A. But he is going to live there.</p>
<p style="text-align: right;">Page 115</p> <p>1 G. Hayden</p> <p>2 Q. Do you know whether it was</p> <p>3 submitted to the Department of Buildings?</p> <p>4 A. I don't know. I hope not.</p> <p>5 Q. And why do you hope it wasn't</p> <p>6 submitted?</p> <p>7 A. Because the Buildings Department</p> <p>8 knows my name. They see you on the record.</p> <p>9 They say, you want the clients to step into</p> <p>10 the picture, what is wrong with you?</p> <p>11 Q. You would be embarrassed if the</p> <p>12 Department of Buildings saw the document?</p> <p>13 A. Absolutely. That I don't know</p> <p>14 what I'm doing, you need the client to come in</p> <p>15 and do it for me. This is terrible.</p> <p>16 Q. Was Mr. Voronchenko in desperate</p> <p>17 need to move into the apartment by the end of</p> <p>18 July?</p> <p>19 MR. McKEE: Objection.</p> <p>20 A. He certainly didn't.</p> <p>21 Q. Did Mr. Voronchenko ever say</p> <p>22 anything to you that indicated that he was in</p> <p>23 desperate need to move into the apartment by</p> <p>24 the end of July?</p> <p>25 A. No, no, not never. No, he never</p>	<p style="text-align: right;">Page 117</p> <p>1 G. Hayden</p> <p>2 Yes, yes, he did move. He had to use the</p> <p>3 apartment, no? Yeah.</p> <p>4 Q. Did Mr. Voronchenko ever tell you</p> <p>5 he wanted to use the apartment as a museum for</p> <p>6 his various art pieces?</p> <p>7 A. No, no, he didn't say that.</p> <p>8 Q. Did he say he wanted to exhibit</p> <p>9 his art pieces in the apartment?</p> <p>10 A. Yeah, as a matter of fact, he did</p> <p>11 say that. That he has some art work he wants</p> <p>12 to show and stuff like that, yeah. Yeah, he</p> <p>13 did say that.</p> <p>14 Q. Have you heard of Delta Home</p> <p>15 Improvement?</p> <p>16 A. No.</p> <p>17 (Plaintiff's Exhibit 8, an</p> <p>18 eight-page e-mail from Delta Corp.,</p> <p>19 dated July 22, 2008, was marked for</p> <p>20 identification, as of this date.)</p> <p>21 Q. Mr. Hayden, I am showing you what</p> <p>22 has been marked as Plaintiff's Exhibit 8. It</p> <p>23 is not Bates stamped, I would just ask you if</p> <p>24 you recognize this document?</p> <p>25 A. Oh, yes. Yeah, now I do, yeah.</p>

<p style="text-align: right;">Page 118</p> <p>1 G. Hayden</p> <p>2 Q. What is this document?</p> <p>3 A. This is a proposal from a</p> <p>4 contractor sent to an ex-person who worked for</p> <p>5 me, Carly, to review, I guess. Yeah, that's</p> <p>6 what it was.</p> <p>7 Q. Did you review this?</p> <p>8 A. Quite honestly, no, not really.</p> <p>9 No, I did not, did not. I think that concept</p> <p>10 did not go very well with the clients. No</p> <p>11 need for me to look into it.</p> <p>12 Q. Which concept is that?</p> <p>13 A. The contractor does not want a</p> <p>14 contractor like that. He's got his own, I</p> <p>15 mean, he's got enough contractors, I guess, to</p> <p>16 choose from. He does not want one more.</p> <p>17 Q. You're saying Mr. Voronchenko</p> <p>18 already has his own contractors that he wanted</p> <p>19 to use?</p> <p>20 A. I assume so, yeah. That's the</p> <p>21 bidding process in as much as he wanted bids</p> <p>22 to a certain degree, as discussed in my</p> <p>23 agreement, that while you're looking at bids.</p> <p>24 I think when this came in Carly looked at it,</p> <p>25 had a conversation or so with the contractor,</p>	<p style="text-align: right;">Page 120</p> <p>1 G. Hayden</p> <p>2 MR. McKEE: Do you see the number</p> <p>3 on the top?</p> <p>4 A. Yeah, on the top, yeah, I see it,</p> <p>5 yeah.</p> <p>6 Q. Is that an amount that was in the</p> <p>7 range of reasonableness for this project?</p> <p>8 MR. McKEE: Objection.</p> <p>9 MR. ISRAEL: Objection.</p> <p>10 A. I'm really not a contractor. I</p> <p>11 can't tell what's reasonable and what's not.</p> <p>12 It is a bid. You know, it is a bid. A bid is</p> <p>13 a bid.</p> <p>14 Q. Do you find that figure</p> <p>15 surprising in any way given the scope of the</p> <p>16 renovation that was being done?</p> <p>17 MR. McKEE: Objection.</p> <p>18 A. I'm not surprised at anything if</p> <p>19 you want the truth. I'm not.</p> <p>20 Q. Was part of your responsibility</p> <p>21 to obtain approval from the co-op board?</p> <p>22 A. Yes.</p> <p>23 Q. Did you obtain approval?</p> <p>24 A. Yes.</p> <p>25 Q. Were there any difficulties in</p>
<p style="text-align: right;">Page 119</p> <p>1 G. Hayden</p> <p>2 and it is totally ignored. It didn't go much</p> <p>3 further than one day.</p> <p>4 Q. Did you pass this bid along to</p> <p>5 the client?</p> <p>6 A. I'm sure we did, yeah, you have</p> <p>7 to.</p> <p>8 Q. Do you recall whether you</p> <p>9 obtained any other bids?</p> <p>10 A. I don't really know that I ever</p> <p>11 did, honestly, no.</p> <p>12 Q. Am I correct that --</p> <p>13 A. How much is this anyway? Let me</p> <p>14 see.</p> <p>15 Q. Am I correct that Medallion found</p> <p>16 Dragan on their own without your assistance?</p> <p>17 A. Yes, that is true, and his</p> <p>18 brother.</p> <p>19 Q. And do you know how much Dragan</p> <p>20 charged Medallion for the work they performed?</p> <p>21 A. No, I do not.</p> <p>22 Q. Turning your attention to the</p> <p>23 last page of the document where the grand</p> <p>24 total is \$724,500, do you see that?</p> <p>25 A. Now that you mentioned it --</p>	<p style="text-align: right;">Page 121</p> <p>1 G. Hayden</p> <p>2 obtaining the co-op board's approval?</p> <p>3 A. Yes.</p> <p>4 Q. What were those difficulties?</p> <p>5 A. Well, they send your drawings</p> <p>6 that they're reviewing engineers and</p> <p>7 architects, and then they come up with</p> <p>8 comments that you need to respond to. And</p> <p>9 once you do that, then they'll recommend this</p> <p>10 that project proceeds.</p> <p>11 So they have to review the</p> <p>12 documents, every co-op board has architects</p> <p>13 reviewing documents. And I personally review</p> <p>14 buildings throughout the city, so I know the</p> <p>15 process, okay. They have different</p> <p>16 architects. If they had me it would be</p> <p>17 easier, they didn't.</p> <p>18 So the architects review and so</p> <p>19 on and so forth. It goes back to the managing</p> <p>20 agent, back and forth to the co-op board</p> <p>21 president to sign the paperwork, and then the</p> <p>22 deal is over. We will proceed and we can go</p> <p>23 ahead and file it and get permits and move</p> <p>24 forward. That process sometimes takes a</p> <p>25 while. So no matter what you do, they have</p>

31 (Pages 118 to 121)



<p style="text-align: right;">Page 122</p> <p>1 G. Hayden</p> <p>2 comments.</p> <p>3 Q. Is that what happened in this</p> <p>4 case, it took a while?</p> <p>5 A. For the architects to review it,</p> <p>6 probably six weeks which is normal. Six,</p> <p>7 something like that, yeah. And produce</p> <p>8 comments, about six weeks. That's standard.</p> <p>9 Q. Do you recall exactly or roughly</p> <p>10 when you received approval from the co-op</p> <p>11 board?</p> <p>12 A. No, but that should be attached</p> <p>13 to probably the permit application, and that's</p> <p>14 the time period, I believe. Once you get the</p> <p>15 approval, you file for the permits, that</p> <p>16 means, you know, you're given that timeframe.</p> <p>17 No, I don't really know the exact date.</p> <p>18 Q. And other than what you've</p> <p>19 already described today, did you have any</p> <p>20 other difficulties obtaining approval from the</p> <p>21 co-op board?</p> <p>22 A. No, no.</p> <p>23 Q. Earlier you testified that the</p> <p>24 decisions on this project were being made</p> <p>25 overseas. Am I correct that by that you meant</p>	<p style="text-align: right;">Page 124</p> <p>1 G. Hayden</p> <p>2 I'm not saying for sure, but it is possible,</p> <p>3 sure.</p> <p>4 Q. Did this project take more or</p> <p>5 less time than the typical projects of this</p> <p>6 scale?</p> <p>7 MR. McKEE: Objection.</p> <p>8 MR. ISRAEL: Objection.</p> <p>9 A. Seriously, it's not less, it's</p> <p>10 not more. I mean, you don't know the</p> <p>11 intensity of this product until you touch it.</p> <p>12 It is very intense. So it could have taken</p> <p>13 more attention to detail than not. And the</p> <p>14 results will probably speak for themselves.</p> <p>15 Pretty good, it is worth it.</p> <p>16 Q. So you were first hired in March</p> <p>17 of 2008, correct?</p> <p>18 A. Right.</p> <p>19 Q. And the project was finished in</p> <p>20 roughly the fall of 2011?</p> <p>21 A. About three years, correct.</p> <p>22 Q. Is about three years a typical</p> <p>23 amount of time for a project of this scope to</p> <p>24 take?</p> <p>25 MR. McKEE: Objection.</p>
<p style="text-align: right;">Page 123</p> <p>1 G. Hayden</p> <p>2 Mr. Voronchenko was making the decisions</p> <p>3 overseas?</p> <p>4 A. He could be making them anywhere</p> <p>5 he wants. But my understanding is that I</p> <p>6 really have no idea where he is. As I said, I</p> <p>7 only spoke to him once or twice, twice as a</p> <p>8 matter of fact. And he's never in the city</p> <p>9 so -- but I know, he's very sharp, believe me.</p> <p>10 His eyes are definitely on the apartment.</p> <p>11 He's not going to let it go.</p> <p>12 Q. Was Mr. Voronchenko's approval</p> <p>13 needed for each significant decision involving</p> <p>14 the apartment?</p> <p>15 A. Absolutely. It is not for me, or</p> <p>16 for the contractors. They don't move a finger</p> <p>17 until he knows about it.</p> <p>18 Q. Did Mr. Voronchenko in the</p> <p>19 process of considering various options ever</p> <p>20 slow the project down in any way?</p> <p>21 A. Surely, I mean, decision making</p> <p>22 is not that easy. It is possible, yeah, it is</p> <p>23 very possible that he himself probably wants</p> <p>24 to think about this a little bit more, it is</p> <p>25 expensive, you know. So it is possible, yeah.</p>	<p style="text-align: right;">Page 125</p> <p>1 G. Hayden</p> <p>2 A. Well, you know, it's not that</p> <p>3 consistent with the process in that if you get</p> <p>4 to a certain point and you stop for a while</p> <p>5 before you start construction, you stop for a</p> <p>6 while that doesn't count, you see.</p> <p>7 If you come to the architect and</p> <p>8 say design a building for me and I do, and</p> <p>9 then you take the document and say, well,</p> <p>10 we're not building this until next summer, so</p> <p>11 would you consider that part of the deal? Not</p> <p>12 really. If you decide not to proceed</p> <p>13 immediately, that doesn't count, that period</p> <p>14 is dead.</p> <p>15 So my understanding is, there was</p> <p>16 something to the effect that the client did</p> <p>17 not proceed in the construction process</p> <p>18 immediately after hiring -- immediately after</p> <p>19 receiving this set of drawings. I don't think</p> <p>20 they did that. There is no penalty for that.</p> <p>21 Q. Why didn't the client immediately</p> <p>22 proceed to the construction process after</p> <p>23 receiving the drawings?</p> <p>24 A. I have no idea. I have no idea.</p> <p>25 And it is none of my business. If they wanted</p>

32 (Pages 122 to 125)

Page 126

1 G. Hayden  
2 to build it, they build it; if they didn't,  
3 they didn't. That's fine with me.  
4 Q. How long a gap was there between  
5 the time that Medallion was provided with the  
6 construction drawings and the time they began  
7 with the construction process?  
8 A. Look at the date of the drawings  
9 and look at the date of the process. I don't  
10 know exactly. I wasn't paying attention to  
11 that stuff, you know, that's not my job.  
12 Q. Other than the period of time in  
13 which there was a gap between the time the  
14 client received the construction documents and  
15 the time construction began, were there any  
16 other times on this project when activity on  
17 the project ceased or closed down?  
18 A. Well, I was not hired to babysit.  
19 I don't really know. I mean, if they had  
20 difficulties during and it slowed the guys  
21 down a little bit -- look, as long as they  
22 don't need anything from me, I don't want to  
23 know from you. So I really don't want to call  
24 that. If you call the architect he'll respond  
25 to you. If you stay out, he'll stay out too.

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1 G. Hayden  
2 I have no idea what they encountered.  
3 There were no problems, no stop  
4 work orders, no violations, none of that  
5 stuff. I'm happy. Anything like that happens  
6 and guess what, you culled right into the  
7 problem. So far nobody said anything, so  
8 they're moving.  
9 As far as I'm concerned, like I'm  
10 going to sit and monitor? Maybe there was a  
11 slow period, slow in receiving deliveries.  
12 That's a contractor problem, you know, it is  
13 really not -- it happens all the time, you  
14 know that. As far as me being aware of those  
15 things, no.  
16 (Plaintiff's Exhibit 9, an e-mail  
17 from Dragan Tatalovic dated June 5,  
18 2009, was marked for identification, as  
19 of this date.)  
20 Q. Do you recognize this document  
21 Plaintiff's Exhibit 9.  
22 A. Is this to me? Is that what he's  
23 saying?  
24 MR. McKEE: What he's asking is,  
25 do you recognize it?

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1 G. Hayden  
2 THE WITNESS: No.  
3 MR. McKEE: Okay, that's your  
4 answer.  
5 A. No, I do not.  
6 Q. Do you know if Pepe Calderon was  
7 working on ceiling plan designs on June 2009?  
8 A. No, I don't know that. I didn't  
9 know that.  
10 MR. MANDEL: Why don't we take a  
11 break?  
12 A. It did come to me. It came from  
13 Dragan. I don't know when the hell Dragan  
14 sent it over. He was doing the ceiling plan.  
15 I know he's doing ceiling plans. I got the  
16 drawings from Pepe of the ceiling plan, but  
17 the day he was doing the ceiling plans, no, of  
18 course not. I don't know that.  
19 MR. MANDEL: Okay, thank you very  
20 much. We'll take a break for lunch  
21 now.  
22 (Time noted: 12:58 p.m.)  
23  
24  
25

Page 129

1 G. Hayden  
2 AFTERNOON SESSION  
3 (Time noted: 1:42 p.m.)  
4 GARTH HAYDEN,  
5 resumed, having been previously duly  
6 sworn, was examined and testified  
7 further as follows:  
8 EXAMINATION (Continued)  
9 MR. MANDEL:  
10 Q. Mr. Hayden, I've handed you what  
11 has been marked Defendant's Exhibit 8. Do you  
12 recognize that document?  
13 A. Yes, I do.  
14 Q. What is it?  
15 A. It is the architectural set of  
16 drawings that I prepared. The floor plan says  
17 existing conditions, that's the apartment  
18 conditions before renovations, and the  
19 proposed demolition of some of the walls.  
20 That's how it starts.  
21 Q. And you have described the first  
22 page of Exhibit 8. But Exhibit 8 actually  
23 continues from page A-1 to A-5. Am I correct  
24 that A-1 through A-5 are all drawings that you  
25 prepared?

33 (Pages 126 to 129)

<p style="text-align: right;">Page 130</p> <p>1 G. Hayden</p> <p>2 A. Yes.</p> <p>3 Q. And am I correct that you</p> <p>4 submitted all those to the Department of</p> <p>5 Buildings?</p> <p>6 A. Yes.</p> <p>7 Q. And am I correct that the</p> <p>8 Department of Buildings approved those plans?</p> <p>9 A. Yes.</p> <p>10 Q. When did you prepare the drawings</p> <p>11 that are contained in Defendant's Exhibit 8?</p> <p>12 A. The amended plans you're</p> <p>13 referring to?</p> <p>14 Q. Yes.</p> <p>15 A. The amended plans were prepared</p> <p>16 somehow a little bit before August 10th,</p> <p>17 because they were approved on August 10th. So</p> <p>18 obviously they're prepared probably a couple</p> <p>19 of weeks before August 10th. Something like</p> <p>20 that, right?</p> <p>21 Q. Mr. Hayden, I didn't prepare</p> <p>22 them, so I don't know when you prepared them.</p> <p>23 A. I didn't say you prepared them.</p> <p>24 Q. Okay. And am I correct that</p> <p>25 these are plans which were drafted with the</p>	<p style="text-align: right;">Page 132</p> <p>1 G. Hayden</p> <p>2 designs to assist you in preparing those</p> <p>3 plans?</p> <p>4 A. The first one?</p> <p>5 Q. Yes.</p> <p>6 A. No, no. The first one had no</p> <p>7 interior designers or any other design</p> <p>8 professionals whatsoever.</p> <p>9 Q. What were the biggest changes</p> <p>10 between your first set of plans and your</p> <p>11 second set of plans?</p> <p>12 A. Soffits, ceilings, lighting</p> <p>13 maybe? Right. What else is different? Some</p> <p>14 closets, not really, closets obviously the</p> <p>15 same. Yeah, those are the changes.</p> <p>16 Master bedroom closet always been</p> <p>17 a problem with these people. They wanted one</p> <p>18 closet, six closets, one closet, six closets,</p> <p>19 so it always changed. So closets changed.</p> <p>20 Foyers changed at some point. Really minor</p> <p>21 touches other than the soffits.</p> <p>22 The architectural intent hasn't</p> <p>23 really changed. It really hasn't changed.</p> <p>24 The design, the layout, the door swings.</p> <p>25 Nothing changed there. It's just --</p>
<p style="text-align: right;">Page 131</p> <p>1 G. Hayden</p> <p>2 intention of reflecting Mr. Calderon's</p> <p>3 designs?</p> <p>4 A. Yes.</p> <p>5 Q. Am I correct that this is the</p> <p>6 second complete set of construction drawings</p> <p>7 that you prepared on this project?</p> <p>8 A. Second, you said?</p> <p>9 Q. Yes.</p> <p>10 A. Yeah, I'm going to say, yes,</p> <p>11 second, yeah. Where is the first?</p> <p>12 Q. That's a fair question.</p> <p>13 A. Right.</p> <p>14 Q. Now I am handing you what has</p> <p>15 been marked as Defendants' Exhibit 1, and I</p> <p>16 ask if you recognize this document?</p> <p>17 A. Yes, I do. Same set of drawings</p> <p>18 that I have prepared for the initial</p> <p>19 submission filing permits, whatever. Yeah.</p> <p>20 And they were superceded and we filed the</p> <p>21 amendment, this was superceded and it is</p> <p>22 stamped superceded. This superceded this set.</p> <p>23 Q. When you prepared the set of</p> <p>24 plans that are in Defendants' Exhibit 1, your</p> <p>25 original set of plans, did you use anyone's</p>	<p style="text-align: right;">Page 133</p> <p>1 G. Hayden</p> <p>2 Q. None of the door swings changed?</p> <p>3 A. Not really, no.</p> <p>4 Q. How about around the foyer?</p> <p>5 A. The door swings in the foyer,</p> <p>6 maybe, yeah. We got this vestibule in here.</p> <p>7 Let me see if it's the same vestibule. The</p> <p>8 door swings changed, but the vestibule stayed</p> <p>9 the same. This whole configuration is almost</p> <p>10 the same, yeah. Decorative fireplace was put</p> <p>11 in the middle of nowhere, here, do you see</p> <p>12 that? This wasn't made before. No decorative</p> <p>13 fireplace there. It is decorative, not real.</p> <p>14 It is a box right here. That was put in.</p> <p>15 It's really not much, other than</p> <p>16 the soffits and the foyer and the walls,</p> <p>17 paneling on the walls. Stuff the Buildings</p> <p>18 Department maybe is not excited to see, but as</p> <p>19 far as we're concerned, they should be</p> <p>20 notified that some of those materials are</p> <p>21 coming to the building for fire safety and</p> <p>22 fire rating. Okay?</p> <p>23 So that's it. I mean,</p> <p>24 essentially if you look at the initial drawing</p> <p>25 of the amendment, you might even notice that,</p>

<p style="text-align: right;">Page 134</p> <p>1 G. Hayden</p> <p>2 I mean I would, but in terms of layout, it has</p> <p>3 no bearing whatsoever. It did not change the</p> <p>4 layout at all.</p> <p>5 Q. Which soffits changed between the</p> <p>6 your first set of plans and the second?</p> <p>7 A. I never had soffits. They were</p> <p>8 added.</p> <p>9 Q. In which rooms were soffits</p> <p>10 added?</p> <p>11 A. Living room, dining room,</p> <p>12 bedroom, foyer. Living room, dining room,</p> <p>13 foyer, master bedroom. Merely decorative-type</p> <p>14 soffits.</p> <p>15 Q. So all the soffits that were</p> <p>16 added were purely decorative and none</p> <p>17 structural, is that correct?</p> <p>18 A. Yeah, right, right.</p> <p>19 Q. Let's talk about the ceilings.</p> <p>20 How did the ceilings change, other than the</p> <p>21 soffits you already talked about? Did the</p> <p>22 ceilings change in any way from your first set</p> <p>23 of designs to the second set of designs?</p> <p>24 A. The lighting. The soffits</p> <p>25 contain lights.</p>	<p style="text-align: right;">Page 136</p> <p>1 G. Hayden</p> <p>2 of switches, number of circuits, yeah.</p> <p>3 But the soffits are really the</p> <p>4 key to the change. Those soffits are the key</p> <p>5 to the change. You don't see them on the</p> <p>6 initial set of documents because we had no</p> <p>7 soffits. Okay? We had no soffits. Soffits</p> <p>8 are optional. You know, it is not a</p> <p>9 necessity.</p> <p>10 Q. Purely decorative?</p> <p>11 A. Yeah. I mean if you ask my</p> <p>12 opinion, if you have a soffit in designing it</p> <p>13 on your own, I will ask you that. Do you like</p> <p>14 soffits? You say what's a soffit? Well, in a</p> <p>15 way --</p> <p>16 Q. How did the closets change</p> <p>17 between your first and second set of plans?</p> <p>18 A. Well, the closet, in fact, was</p> <p>19 used as a deeper closet for her, because she</p> <p>20 has a lot of stuff. So using -- taking this</p> <p>21 closet and having this front and back so she</p> <p>22 can have more stuff, right?</p> <p>23 Then the decision came back not</p> <p>24 to demolish this wall because by demolishing</p> <p>25 this wall you incorporate this closet into</p>
<p style="text-align: right;">Page 135</p> <p>1 G. Hayden</p> <p>2 Q. In which rooms did the soffits</p> <p>3 contain lights, was it all of them?</p> <p>4 A. Foyer, living room, dining room,</p> <p>5 master bedroom.</p> <p>6 Q. Whose idea was it to put in</p> <p>7 soffits?</p> <p>8 A. Pepe.</p> <p>9 Q. Whose idea was it to put lighting</p> <p>10 in the soffits?</p> <p>11 A. I would say Pepe. I mean,</p> <p>12 obviously it has to come with the soffit. As</p> <p>13 to how many lights, it is probably mine. My</p> <p>14 idea of how many lights he would fit in a</p> <p>15 soffit under one circuit. He's not going to</p> <p>16 do that.</p> <p>17 Q. And other than the lighting and</p> <p>18 the soffits, did the lighting change in any</p> <p>19 way between your first and second set of</p> <p>20 designs?</p> <p>21 A. Yes, it did. Yes, it did.</p> <p>22 Because now it effects the light switches.</p> <p>23 Everything is different. When you come up</p> <p>24 with a solution different from the first,</p> <p>25 everything changes, the switch location, type</p>	<p style="text-align: right;">Page 137</p> <p>1 G. Hayden</p> <p>2 this closet, giving her more room, having this</p> <p>3 closet get enough of this baby room.</p> <p>4 The answer is probably we can</p> <p>5 live with less closets and let the baby room</p> <p>6 have bigger closets. So they ended up with</p> <p>7 three closets.</p> <p>8 It is a change from the initial</p> <p>9 design. It is conversation pieces, it is</p> <p>10 really unnecessary. But that's how it changed</p> <p>11 in reference to the closets.</p> <p>12 Then the doors, you see, I like</p> <p>13 these bigger doors, you know, it is a lot</p> <p>14 easier to have access to the content of the</p> <p>15 closets if your doors are a little bigger. If</p> <p>16 the doors are too small, access to the inside</p> <p>17 of the closets become a little more hindered.</p> <p>18 And the number of doors is really important</p> <p>19 now. Now you have 1, 2, 3, 4, 5, 6, 7, 8, 9,</p> <p>20 10 doors. You have bigger doors you may get</p> <p>21 away with eight doors, you understand? It is</p> <p>22 a little easier to build, a little bit nicer.</p> <p>23 To look for what you seek, what is it going to</p> <p>24 look like with all of these doors, or less</p> <p>25 doors, with more doors. So you know, it is a</p>

35 (Pages 134 to 137)

<p style="text-align: right;">Page 138</p> <p>1 G. Hayden</p> <p>2 decision.</p> <p>3 Q. I appreciate that. And while you</p> <p>4 very articulately explained parts of your</p> <p>5 answer to the last question by pointing, the</p> <p>6 court reporter couldn't take that down. So I</p> <p>7 am just going to ask a few followup questions</p> <p>8 so that it is clear for the record.</p> <p>9 Am I correct that in the original</p> <p>10 set of plans you would have extended the</p> <p>11 master bedroom closets into those closets that</p> <p>12 were in the second bedroom?</p> <p>13 A. Well, let's take another look at</p> <p>14 the initial drawings to see if that was the</p> <p>15 case or not, because what I'm seeing now is</p> <p>16 not what I saw before, just to make sure,</p> <p>17 okay, that that closet was, in fact, shifted.</p> <p>18 No, I don't want to point</p> <p>19 anymore, you can point if you want. But if</p> <p>20 you look at bedroom number 2, right, and then</p> <p>21 bedroom number 1, you'll see that part of the</p> <p>22 closet that used to be, assuming, in bedroom</p> <p>23 number 2 under this initial scheme was given</p> <p>24 to bedroom number 1. And the second scheme</p> <p>25 will show that this closet was given back to</p>	<p style="text-align: right;">Page 140</p> <p>1 G. Hayden</p> <p>2 Q. Yes.</p> <p>3 A. Do you see it over there? No.</p> <p>4 Q. No.</p> <p>5 A. So that's considered a huge</p> <p>6 change. Now for the client to say take out</p> <p>7 the shower, and you say, why the hell do you</p> <p>8 want me to do that? Oh, it's ugly. It is a</p> <p>9 powder room, it doesn't have a shower.</p> <p>10 And he'll say, well, I really</p> <p>11 don't think you should take a shower. Because</p> <p>12 once you take it out as a fixture you can't</p> <p>13 bring it back in because you hang the number</p> <p>14 of fixture units in the building itself.</p> <p>15 He said, take it out. He wanted</p> <p>16 it out, take it out. So the amended comes</p> <p>17 back, he decided that he really does not want</p> <p>18 the shower out. Okay, so I put it back.</p> <p>19 Can you put it back without a</p> <p>20 problem? Yeah, I can put it back without a</p> <p>21 problem, it is right here. It is pre approved</p> <p>22 with the amended plan with the shower. That's</p> <p>23 what architects do. It doesn't matter what</p> <p>24 the client wants. You want the shower in, it</p> <p>25 is in. If you want it out, it is out. As</p>
<p style="text-align: right;">Page 139</p> <p>1 G. Hayden</p> <p>2 bedroom number 2, allowing bedroom number 1</p> <p>3 less closets. But that's a change. That's</p> <p>4 the demolition. We took it out so that didn't</p> <p>5 change.</p> <p>6 Right, but if you never</p> <p>7 demolished the wall, and you decide not to</p> <p>8 demolish the wall, then that's fine. The wall</p> <p>9 between the two closets, by the way, is what</p> <p>10 I'm talking about. So that's the change.</p> <p>11 There's another change if you want to hear it,</p> <p>12 other than the soffits. This is the</p> <p>13 superceded drawing and this is the drawing</p> <p>14 here.</p> <p>15 Now watch this change, it is</p> <p>16 extremely important because Vladimir kept</p> <p>17 changing his mind about one thing every time</p> <p>18 you talked to him, through obviously, Garry.</p> <p>19 The point that I'm telling you here now, if</p> <p>20 you look at this bathroom, you're in the</p> <p>21 bathroom, that's the bathroom to the library.</p> <p>22 MR. McKEE: Bathroom three.</p> <p>23 A. To the library. Or you can look</p> <p>24 at this bathroom, same bathroom, do you see a</p> <p>25 shower?</p>	<p style="text-align: right;">Page 141</p> <p>1 G. Hayden</p> <p>2 long as it is legal to do that and it has no</p> <p>3 bearing on the plumbing division not signing</p> <p>4 off on it we'll do it.</p> <p>5 The other thing you should notice</p> <p>6 is the entrance from the foyer to the library,</p> <p>7 at one time it was closed. Do you see it?</p> <p>8 Q. Yes.</p> <p>9 A. You don't see it?</p> <p>10 Q. Right here?</p> <p>11 A. You're pointing again.</p> <p>12 Q. Okay. So the record is clear I</p> <p>13 pointed to the original set of plans.</p> <p>14 A. That shows the foyer disconnected</p> <p>15 from the library which means you have no</p> <p>16 direct access from the foyer entry to the</p> <p>17 library section of the apartment. You need to</p> <p>18 go through the living room to get there.</p> <p>19 Which in concept it is pretty good to tell you</p> <p>20 that much, okay.</p> <p>21 But now why did you do that?</p> <p>22 Because he doesn't want to see a door, that's</p> <p>23 why. So if we buy a real nice door maybe that</p> <p>24 will be fine with you? That's exactly what we</p> <p>25 did.</p>

<p style="text-align: right;">Page 142</p> <p>1 G. Hayden</p> <p>2 Q. So am I correct then that in the</p> <p>3 final construction you put a very nice door in</p> <p>4 between the library and the foyer?</p> <p>5 A. That is correct.</p> <p>6 Q. Who designed that door?</p> <p>7 A. He gave me the doors made in</p> <p>8 Italy. They came from Italy these doors. All</p> <p>9 the doors, not just one door. Those doors</p> <p>10 came from Italy, nice doors, then he decided,</p> <p>11 you know what? Take all the doors out, okay.</p> <p>12 All the doors out? All the doors out. Out</p> <p>13 they went out.</p> <p>14 Q. And he made that decision after</p> <p>15 he had already received the doors from Italy?</p> <p>16 A. During.</p> <p>17 Q. While the doors were in the</p> <p>18 process of being sent over?</p> <p>19 A. Yes.</p> <p>20 Q. Had the doors been already</p> <p>21 manufactured at that point?</p> <p>22 A. Not to my knowledge. I'm not</p> <p>23 really interested in what doors you use. I</p> <p>24 mean, you want the door going to the library</p> <p>25 in the foyer and you have nice doors to</p>	<p style="text-align: right;">Page 144</p> <p>1 G. Hayden</p> <p>2 Q. Your amendment?</p> <p>3 A. Yeah, it has to be examined from</p> <p>4 scratch. You come in one day, you're coming</p> <p>5 in one. What's going on one day, we have a</p> <p>6 shower, then we don't have a shower. One day</p> <p>7 we have soffits, one day we don't have</p> <p>8 soffits. Nothing illegal about that.</p> <p>9 Examiners know this and they just need to</p> <p>10 examine it, and they did, fine.</p> <p>11 Q. Was there anything that</p> <p>12 Mr. Voronchenko changed his mind about, other</p> <p>13 than the things you described?</p> <p>14 A. Yeah, big time, big time.</p> <p>15 Q. What else did he change his mind</p> <p>16 about?</p> <p>17 A. He now wanted to renovate the</p> <p>18 other bathrooms. You see? Big time, okay.</p> <p>19 Q. Which bathrooms?</p> <p>20 A. The other two.</p> <p>21 Q. Originally he didn't want to</p> <p>22 renovate them?</p> <p>23 A. No, originally he did not want to</p> <p>24 renovate them.</p> <p>25 Q. And he changed his mind about</p>
<p style="text-align: right;">Page 143</p> <p>1 G. Hayden</p> <p>2 present, very presentable doors, I think</p> <p>3 that's not objectionable whatsoever, to see a</p> <p>4 door.</p> <p>5 It is inconsistent with the</p> <p>6 living room which is a major pretty major</p> <p>7 entrance. You don't want to see a midget</p> <p>8 thing next door. It is just not right. So</p> <p>9 that was a better approach.</p> <p>10 But then, you know, I don't know,</p> <p>11 I guess by keeping the shower, you got the</p> <p>12 break. You see, by keeping the shower, I'm</p> <p>13 pointing again, you got the break. Look at</p> <p>14 that, it has no break. So it is a lot</p> <p>15 cleaner. Right?</p> <p>16 Q. Yeah.</p> <p>17 A. I'm not trying to turn you into</p> <p>18 an architect. But what it is, it is a lot</p> <p>19 cleaner, you can see that, right? Once you</p> <p>20 start making this and allowing this break in</p> <p>21 walls, then anything is possible, okay?</p> <p>22 Right. So I did that. Fine, he wanted this,</p> <p>23 he got that. That's the content of this</p> <p>24 amendment other than the soffit. It really is</p> <p>25 a big amendment to submit.</p>	<p style="text-align: right;">Page 145</p> <p>1 G. Hayden</p> <p>2 that?</p> <p>3 A. Right.</p> <p>4 Q. Were those two other bathrooms</p> <p>5 ultimately renovated?</p> <p>6 A. The fixtures may have been all</p> <p>7 out of place, again I can't really say more</p> <p>8 than that.</p> <p>9 Q. Did he change his mind about</p> <p>10 anything else?</p> <p>11 A. Sure.</p> <p>12 Q. What else?</p> <p>13 A. The floor, the entire wood</p> <p>14 flooring, instead of repairing it he wants it</p> <p>15 ripped out. And I'm saying why? He says</p> <p>16 well, you try to repair it, it is going to</p> <p>17 look patched and repaired. Well, that's what</p> <p>18 repair is all about, it is not exactly from</p> <p>19 scratch. He ripped it all out.</p> <p>20 Q. What else did he change his mind</p> <p>21 about?</p> <p>22 A. Fireplace, I told you about the</p> <p>23 decorative fireplace. He wants a fireplace of</p> <p>24 some sort.</p> <p>25 Q. Then he decided he didn't want a</p>

37 (Pages 142 to 145)

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1 G. Hayden  
2 fireplace?  
3 A. No, he never wanted one, now he  
4 did.  
5 Q. Oh.  
6 A. Yeah, so now he got it.  
7 Q. So in the final construction  
8 there was a fireplace in the living room, is  
9 that correct?  
10 A. Yeah.  
11 Q. You'll have to bear with me on  
12 the final construction because I've never seen  
13 the apartment, and I never seen any photos of  
14 the apartment, so I don't know what it  
15 actually looks like.  
16 A. Okay.  
17 Q. What else did he change his mind  
18 about?  
19 A. Top of my head, I'm not seeing  
20 other things.  
21 Q. Did the fact that Mr. Voronchenko  
22 changed his mind on those issues slow down the  
23 renovation of the apartment in any way?  
24 MR. ISRAEL: Objection.  
25 A. I know I keep going to this. If

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1 G. Hayden  
2 he changes his mind, it is his call, you know.  
3 You don't want to give him something he  
4 doesn't want. I don't know if it slowed the  
5 construction. But I can say this, his  
6 decisions are pretty good, you know, in the  
7 overall maintenance and appearance.  
8 Q. You're pleased with how the  
9 apartment turned out?  
10 A. Yes, yes. You see that,  
11 dimension 4 feet? You see that, 4 feet? It's  
12 really now 5 feet. Why did he do that,  
13 because he felt that four-foot corridor is a  
14 little bit too narrow. I agree that 5 feet is  
15 excessive. So where do you go? You want  
16 5 feet? 5 feet. In the bedroom why do you  
17 need all that wasted space?  
18 Q. So the record is clear, you're  
19 saying in the original plans the hallway  
20 between the master bedroom closet and the  
21 master bedroom was going to be 4-foot wide but  
22 the amended plan was 5 feet wide because  
23 Mr. Voronchenko requested that it be larger?  
24 A. We had to take down a wall for  
25 him to do that. It wasn't easy. Right.

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1 G. Hayden  
2 Q. You said you were pleased with  
3 the final apartment?  
4 A. Yeah.  
5 Q. Do you attribute any of the  
6 success of the renovation the Mr. Calderon?  
7 A. No, I do not, quite honestly. He  
8 came up with the concept and he disappeared.  
9 He never came in as a courtesy to look. He  
10 left it all in my head.  
11 Q. Did his concept --  
12 A. Did his concept work?  
13 Q. Yeah.  
14 A. It is too late now.  
15 Q. What do you mean it is too late  
16 now?  
17 A. It is too late now. He built it  
18 already. What? Am I going to tell the client  
19 his concept looks horrible?  
20 Q. Am I correct that you used his  
21 concept in preparing your drawing?  
22 MR. McKEE: Objection.  
23 MR. ISRAEL: Objection.  
24 Q. Is that correct?  
25 A. I used his drawings to create a

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1 G. Hayden  
2 concept, yes. It is his idea to have soffits,  
3 lights in soffits. I don't think he ever  
4 built this dome like this, circle of dome in  
5 the middle. I'm not really sure we did that.  
6 But if we did, yeah.  
7 Q. You're referring to --  
8 A. A dome in the foyer.  
9 Q. The dome in the foyer?  
10 A. Or a soffit in the form of a  
11 circle.  
12 Q. A circular soffit in the foyer?  
13 A. Right.  
14 Q. With respect to all the changes,  
15 what changes were made to the foyer from your  
16 original set of plans to your second set of  
17 plans, other than the circular soffit that you  
18 just described?  
19 A. Everything is the same except  
20 when you add a shower you're not effecting  
21 just the foyer, you're effecting the whole  
22 layout. When you add the shower, you have  
23 bumpy roads that you didn't have before. So  
24 even when you put the shower back into the  
25 bathroom, obviously the whole foyer changes.

<p style="text-align: right;">Page 150</p> <p>1 G. Hayden</p> <p>2 You can see that, right?</p> <p>3 Q. Yes. And that's because the</p> <p>4 shower, part of the shower --</p> <p>5 A. Is in the foyer.</p> <p>6 Q. -- is where the foyer was</p> <p>7 supposed to be in your original set of plans?</p> <p>8 A. Right.</p> <p>9 Q. So the shape of the foyer changed</p> <p>10 between your original set of plans and your</p> <p>11 amended set of plans?</p> <p>12 A. You lost a closet along the way.</p> <p>13 Q. You're pointing to the closet</p> <p>14 that I believe was a closet in the foyer?</p> <p>15 A. Right. Now that closet is</p> <p>16 accessible from the vestibule, it is not</p> <p>17 completely gone. Part of it is still</p> <p>18 available for use, but not the same size. It</p> <p>19 is really kind of small which is over here.</p> <p>20 But it is okay if they can live with that,</p> <p>21 that's fine, no problem.</p> <p>22 Q. Any other changes to the foyer</p> <p>23 between your original set of plans and your</p> <p>24 amended set of plans?</p> <p>25 A. No, not that I see.</p>	<p style="text-align: right;">Page 152</p> <p>1 G. Hayden</p> <p>2 would be about the soffits, which directly</p> <p>3 effects the lighting. I guess that's it.</p> <p>4 Everything else is generated by the client</p> <p>5 essentially, you know, like the shower has to</p> <p>6 go back, the fireplace needs to be put in,</p> <p>7 bathrooms need to be redone. That's it really</p> <p>8 from the designer's documents.</p> <p>9 Q. So turning your attention, I just</p> <p>10 also handed you Plaintiff's Exhibit 2, which</p> <p>11 contains some of Mr. Calderon's designs.</p> <p>12 A. Right.</p> <p>13 Q. Turning your attention to the</p> <p>14 second page of that exhibit, the first</p> <p>15 drawing?</p> <p>16 A. Wait a minute, you're only</p> <p>17 looking -- when I looked at the amended plans,</p> <p>18 the construction drawings, you're not looking</p> <p>19 at elevations yet. And you gave me elevations</p> <p>20 with that set of pamphlets. If you want me to</p> <p>21 look at the elevations on this one I'll be</p> <p>22 happy to.</p> <p>23 Q. Did you receive floor plans from</p> <p>24 Mr. Calderon?</p> <p>25 A. Well, without the floor plans you</p>
<p style="text-align: right;">Page 151</p> <p>1 G. Hayden</p> <p>2 Q. How about any other changes to</p> <p>3 the library between the original set of plans</p> <p>4 and your amended set of plans?</p> <p>5 A. With the exception of the shower</p> <p>6 inside the bathroom library, a library</p> <p>7 bathroom, no.</p> <p>8 Q. How about a vaulted ceiling?</p> <p>9 A. That's a soffit.</p> <p>10 Q. Am I correct that your amended</p> <p>11 plan had a soffit that created a vaulted</p> <p>12 ceiling in the library?</p> <p>13 A. Yes, it's true. It came with the</p> <p>14 design that the ceiling of the library is</p> <p>15 configured a certain way, it is vaulted.</p> <p>16 Q. With respect to all the</p> <p>17 differences between your amended set of plans</p> <p>18 and your original set of plans, how many of</p> <p>19 those differences can be attributed to things</p> <p>20 you took from Mr. Calderon's drawings?</p> <p>21 MR. McKEE: Can I have that read</p> <p>22 back?</p> <p>23 (Question read.)</p> <p>24 A. How many things? I'm going to</p> <p>25 tell you that the only possible interpretation</p>	<p style="text-align: right;">Page 153</p> <p>1 G. Hayden</p> <p>2 can't do elevations, because the floor plans</p> <p>3 have a symbol that tells you which elevation</p> <p>4 you're looking at. So it has to come with the</p> <p>5 plans. This is just which wall you're looking</p> <p>6 at off the plan, A, B, C or D.</p> <p>7 Q. Are there any floor plans in</p> <p>8 Exhibit 2?</p> <p>9 A. Yes, there is.</p> <p>10 Q. Why don't you direct me to the</p> <p>11 floor plan in Exhibit 2.</p> <p>12 A. You just skipped hem.</p> <p>13 Q. I skipped them?</p> <p>14 A. That's it.</p> <p>15 Q. This is a floor plan?</p> <p>16 A. Yeah.</p> <p>17 Q. Okay. Starting with the second</p> <p>18 page of Exhibit 2 what, if anything, did you</p> <p>19 take from this page and include on your set of</p> <p>20 amended plans?</p> <p>21 MR. ISRAEL: Objection.</p> <p>22 A. The circle.</p> <p>23 Q. You're referring to the circular</p> <p>24 soffit --</p> <p>25 A. Correct.</p>



<p style="text-align: right;">Page 154</p> <p>1 G. Hayden</p> <p>2 Q. -- in the foyer?</p> <p>3 A. Right. You can see in the plans</p> <p>4 there is a circle, yes?</p> <p>5 Q. Yes, I'm sorry. I should have</p> <p>6 answered you more quickly.</p> <p>7 A. Okay.</p> <p>8 Q. What else?</p> <p>9 A. The elevations on the other plans</p> <p>10 that reflect the ceiling. This is the floor</p> <p>11 plan and that's a reflected ceiling, you're</p> <p>12 looking up, okay? A base plan, I guess not.</p> <p>13 They don't reflect the ceiling yet. So base</p> <p>14 plan, I'm not sure what the other one is all</p> <p>15 about anyway. This base plan is the same as</p> <p>16 that, but anyway don't pay attention to that.</p> <p>17 The point, is you have a dome or some sort of</p> <p>18 soffit on top.</p> <p>19 Now your guess is just as good as</p> <p>20 mine as to exact location of the upper portion</p> <p>21 of that circle in relation to the entire</p> <p>22 ceiling. You're guess is just as good as</p> <p>23 mine. The only person that's going to do that</p> <p>24 is when they determine the exact location of</p> <p>25 that circle relative to the footprint of the</p>	<p style="text-align: right;">Page 156</p> <p>1 G. Hayden</p> <p>2 Q. Did Mr. Calderon provide you with</p> <p>3 AutoCAD files?</p> <p>4 A. Yes.</p> <p>5 Q. Did those AutoCAD files include</p> <p>6 the location of the soffit?</p> <p>7 A. Well, yeah you can scale it if</p> <p>8 you want. His drawings didn't have numbers on</p> <p>9 it. It doesn't have exact dimensions on it.</p> <p>10 So it is not assigned.</p> <p>11 Q. Just to be clear, the AutoCAD</p> <p>12 file that you received from Mr. Calderon</p> <p>13 didn't have any dimensions on it, isn't that</p> <p>14 correct?</p> <p>15 A. No, no, did not have any</p> <p>16 dimensions on it. Did not have any dimensions</p> <p>17 on it. But you can put that drawing to scale</p> <p>18 yourself and then you can measure it yourself,</p> <p>19 you can do that.</p> <p>20 Q. Is that what you did?</p> <p>21 A. Yes, of course, if you want to</p> <p>22 get close, right? You want to get close to</p> <p>23 the drawings, yes, of course, you do. So you</p> <p>24 have to put measurements and define it</p> <p>25 graphically and with numbers.</p>
<p style="text-align: right;">Page 155</p> <p>1 G. Hayden</p> <p>2 foyer, okay? We did that.</p> <p>3 So what I took from his drawings</p> <p>4 essentially, as we said many times before, is</p> <p>5 the concept. You can also see clearly that</p> <p>6 his drawings, Pepe's drawings that came to me,</p> <p>7 whether it's a reflection of the initial</p> <p>8 submission that I made, not a second one, now</p> <p>9 I have to make that adjustment. If you</p> <p>10 adjusted your architectural set and the client</p> <p>11 didn't know that, you're not going to come</p> <p>12 back and say, oh, now look, do that.</p> <p>13 What you do now is you take his</p> <p>14 design concept, incorporate that in the</p> <p>15 changes that you made at the time that he was</p> <p>16 doing his. Now we're not in the same office,</p> <p>17 we don't even talk, so make that work. So you</p> <p>18 can see that I made it work, give myself a lot</p> <p>19 of credit, but I did. So that the foyer and</p> <p>20 the intent of the drop soffit around the foyer</p> <p>21 area is in keeping with the scale to foyer.</p> <p>22 That's what I did. What I took from his plan</p> <p>23 essentially is the design concept of lowering</p> <p>24 the central portion of the foyer in a circular</p> <p>25 format. Fine, easy.</p>	<p style="text-align: right;">Page 157</p> <p>1 G. Hayden</p> <p>2 Q. Turning your attention to the</p> <p>3 next page of Exhibit 2, am I correct that</p> <p>4 there was a scale included on the dining room</p> <p>5 elevations?</p> <p>6 A. You always have to draw to scale.</p> <p>7 Q. So all of Mr. Calderon's drawings</p> <p>8 had a scale, is that correct?</p> <p>9 MR. McKEE: Objection.</p> <p>10 MR. ISRAEL: Objection.</p> <p>11 A. To say the least, they should</p> <p>12 have some sort of scale. It is not that we're</p> <p>13 going to pay attention to his scale because,</p> <p>14 as I said many times before, based upon what's</p> <p>15 measured by us. So we know the heights, we</p> <p>16 know the width, we know every wall. You give</p> <p>17 me this elevation without dimensions, I need</p> <p>18 to fit your design on this because this is the</p> <p>19 scale 100 percent.</p> <p>20 So I remember, regardless of what</p> <p>21 you do here, if you have that concept of take</p> <p>22 that wall and I know I can fit it because I</p> <p>23 have the actual real dimensions on my</p> <p>24 drawings, I have the AutoCAD to show that,</p> <p>25 compare it to yours, to the extent if you're</p>

40 (Pages 154 to 157)

<p style="text-align: right;">Page 158</p> <p>1 G. Hayden</p> <p>2 off, I'm not going to tell you. If you're</p> <p>3 right that's good.</p> <p>4 The scale, you can't present a</p> <p>5 drawing of any sort unless you have a scale.</p> <p>6 You just can't do that. The AutoCAD can't</p> <p>7 even take it.</p> <p>8 Q. Did the AutoCAD drawings that</p> <p>9 Mr. Calderon provided you with have dimensions</p> <p>10 on them?</p> <p>11 A. Some do, some do, some do. I</p> <p>12 can't really say with which one had it, which</p> <p>13 one didn't have it. The point is, if it</p> <p>14 doesn't show any dimensions because the</p> <p>15 AutoCAD itself can read it back to you, you</p> <p>16 can just put the question mark to the lines.</p> <p>17 I'll give you the height, the dimension. But</p> <p>18 it is definitely drawn to scale, because the</p> <p>19 AutoCAD does not take it any other way.</p> <p>20 Q. Did you receive designs or</p> <p>21 drawings from any person, other than</p> <p>22 Mr. Calderon, in connection with this project?</p> <p>23 A. I can tell you this, the</p> <p>24 contractor, what's his name?</p> <p>25 Q. Dragan?</p>	<p style="text-align: right;">Page 160</p> <p>1 G. Hayden</p> <p>2 A. You know what, yes, I may have</p> <p>3 got one more set of another unknown</p> <p>4 personality in this earth.</p> <p>5 Q. Who?</p> <p>6 A. I don't know. That's one of the</p> <p>7 initial back and forth that the client had to</p> <p>8 select one of those designers to work with me.</p> <p>9 He spent a lot of time with that, you have to</p> <p>10 know that. He spent a tremendous amount of</p> <p>11 time trying to figure out what design can work</p> <p>12 with me and how. He probably knows I'm not</p> <p>13 that easy, but he knows that. He needs</p> <p>14 somebody that can work with me and produce it.</p> <p>15 So he kept looking around where he can</p> <p>16 probably find somebody that he was confident</p> <p>17 that we can produce it.</p> <p>18 MR. McKEE: Off the record.</p> <p>19 (Discussion off the record.)</p> <p>20 (Witness and counsel confer.)</p> <p>21 (Plaintiff's Exhibit 10,</p> <p>22 apartment drawings was marked for</p> <p>23 identification, as of this date.)</p> <p>24 Q. I've just handed you what has</p> <p>25 been marked as Plaintiff's Exhibit 10 which is</p>
<p style="text-align: right;">Page 159</p> <p>1 G. Hayden</p> <p>2 A. Dragan, could have brought</p> <p>3 another copy of the same set of drawings</p> <p>4 because he had a little bit more copies than I</p> <p>5 did, okay? It is redundancy. But the answer</p> <p>6 to that could be through the contractor,</p> <p>7 Dragan, period. Just Dragan would have access</p> <p>8 to these drawings.</p> <p>9 Q. Right, right. I'm not asking you</p> <p>10 who sent the drawings to you. My question</p> <p>11 is --</p> <p>12 A. Did I receive --</p> <p>13 Q. -- did you receive drawings</p> <p>14 created by a person other than Mr. Calderon,</p> <p>15 in connection with this project?</p> <p>16 A. Yes, I told you the Russian</p> <p>17 architect.</p> <p>18 Q. Right. Was the Russian architect</p> <p>19 Libracon?</p> <p>20 A. Is it? I have a brochure in my</p> <p>21 office. I never knew his name.</p> <p>22 Q. Other than the Russian architect</p> <p>23 or designer and Mr. Calderon, did you receive</p> <p>24 drawings or designs from any other person in</p> <p>25 connection with this project?</p>	<p style="text-align: right;">Page 161</p> <p>1 G. Hayden</p> <p>2 spiral bound book of perhaps drawings and</p> <p>3 perhaps photographs or renderings of some</p> <p>4 kind. Do you recognize this document,</p> <p>5 Mr. Hayden?</p> <p>6 A. Yes.</p> <p>7 Q. What is this document?</p> <p>8 A. It's sort of a design concept</p> <p>9 that shows the layout of the apartment with</p> <p>10 furniture, okay, including a dining room set,</p> <p>11 foyer, bedroom/library. So I didn't really</p> <p>12 know whether there was going to be a library</p> <p>13 at this point, or bedroom/usable at a library,</p> <p>14 one or the other. But generally it is open in</p> <p>15 the same matter that I had it open. If you</p> <p>16 can see, instead of sliders, they have surface</p> <p>17 mounted sliding doors, pretty ugly but they</p> <p>18 do.</p> <p>19 Q. There is no reason to hold back,</p> <p>20 Mr. Hayden.</p> <p>21 When did you receive Plaintiff's</p> <p>22 Exhibit 10?</p> <p>23 A. It looks like 6/2/08.</p> <p>24 Q. Am I correct that you testified</p> <p>25 about this earlier and you indicated that you</p>

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<p style="text-align: right;">Page 162</p> <p>1 G. Hayden</p> <p>2 expressed your unhappiness with these</p> <p>3 designs --</p> <p>4 A. Yes.</p> <p>5 Q. -- to Mr. Voronchenko?</p> <p>6 A. Yes, absolutely.</p> <p>7 Q. And am I correct that Libracon</p> <p>8 prepared these?</p> <p>9 A. Yes, it's Libracon. Now that I'm</p> <p>10 pronouncing it right.</p> <p>11 Q. It is L I B R A C O N, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Did you incorporate anything in</p> <p>14 Plaintiff's Exhibit 10 in any of your</p> <p>15 drawings?</p> <p>16 A. No, not at all.</p> <p>17 Q. Was anything in Plaintiff's</p> <p>18 Exhibit 10 included in the apartment</p> <p>19 renovation in any way?</p> <p>20 A. No, no, no, none of that stuff,</p> <p>21 no. None of it.</p> <p>22 Q. Are you aware of whether Libracon</p> <p>23 had any involvement on the project after it</p> <p>24 produced this book?</p> <p>25 MR. ISRAEL: Objection.</p>	<p style="text-align: right;">Page 164</p> <p>1 G. Hayden</p> <p>2 MR. ISRAEL: Objection.</p> <p>3 Q. A-2.</p> <p>4 MR. McKEE: Do you want him to go</p> <p>5 through everything.</p> <p>6 A. A-2 is very limited. You can see</p> <p>7 that. In the other drawings you're talking to</p> <p>8 me about only have relationship with the</p> <p>9 foyer. There's more -- here you go, there's</p> <p>10 more. You want to look at all the plans?</p> <p>11 MR. McKEE: You're referring him</p> <p>12 to Plaintiff's 2. You want him to go</p> <p>13 through all the floor plans that are in</p> <p>14 here because there are other floor</p> <p>15 plans?</p> <p>16 A. Yes.</p> <p>17 Q. What I'm asking more generally, I</p> <p>18 am interested in understanding everything that</p> <p>19 you included on your amended set of plans</p> <p>20 which is sheet A-2, that you took from</p> <p>21 Mr. Calderon's designs, and you already</p> <p>22 testified to a couple of things. And I don't</p> <p>23 want to butcher the records by trying to</p> <p>24 summarize what those things were. Your</p> <p>25 testimony was what it was.</p>
<p style="text-align: right;">Page 163</p> <p>1 G. Hayden</p> <p>2 A. Not that I know of. But the fact</p> <p>3 of the matter is this flat rejection, this</p> <p>4 concept, this is not going to work. No, I</p> <p>5 don't think he ever came back to this project</p> <p>6 this guy whoever he is, no.</p> <p>7 Q. You had no communications with</p> <p>8 Libracon after you received this book, is that</p> <p>9 correct?</p> <p>10 A. No, I never spoke to him not even</p> <p>11 before the book, never knew who he was.</p> <p>12 Q. We can put aside Plaintiff's</p> <p>13 Exhibit 10. Thank you.</p> <p>14 Turning your attention to your</p> <p>15 original set of plans and your amended set of</p> <p>16 plans which are exhibits, I believe,</p> <p>17 Defendants' Exhibit 1 and Defendants'</p> <p>18 Exhibit 8, is that correct?</p> <p>19 MR. McKEE: Yes.</p> <p>20 Q. Other than what you've already</p> <p>21 testified to here today, is there anything on</p> <p>22 page A-2 on your amended set of plans that was</p> <p>23 taken from Mr. Calderon's designs, other than</p> <p>24 what you already testified to?</p> <p>25 A. From A-2.</p>	<p style="text-align: right;">Page 165</p> <p>1 G. Hayden</p> <p>2 But other than what you testified</p> <p>3 here today, was there anything else you took</p> <p>4 from Mr. Calderon's design included on A-2?</p> <p>5 A. On A-2 itself? I guess A-2 is</p> <p>6 the foyer, A-2 is the foyer. A-2 is the</p> <p>7 dining room, do you see that?</p> <p>8 Q. Yes.</p> <p>9 A. If you start giving elevation and</p> <p>10 you show it to me in plan, it is one of the</p> <p>11 same, okay? So you're showing it to me in</p> <p>12 elevations while, in fact, you're referring to</p> <p>13 the plan of A-2, the answer would be yes. If</p> <p>14 you come back with the elevations that are</p> <p>15 drawn, that's reflective of the dining room</p> <p>16 and the dining room is on A-2 in plan but the</p> <p>17 elevation shows something that is incorporated</p> <p>18 in the plan, because I can tell that it is,</p> <p>19 the answer would be, yes. If you go to the</p> <p>20 living room, you'll find exactly the same</p> <p>21 hinge.</p> <p>22 Q. I don't want to hide from you</p> <p>23 where I'm going with this.</p> <p>24 A. You don't have to hide. I know</p> <p>25 where you're going so that doesn't matter. So</p>

42 (Pages 162 to 165)

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1 G. Hayden  
2 go wherever you want.  
3 Q. I appreciate that.  
4 A. Sure.  
5 Q. I am going to go through the  
6 other pages on your amended set of plans next,  
7 but I'm curious with anything that wound up on  
8 A-2 that you took from Mr. Calderon's designs.  
9 So a minute ago you were referring to the  
10 dining room. What did you take from  
11 Mr. Calderon's designs that are included in  
12 the dining room on page A-2?  
13 A. The soffits.  
14 MR. McKEE: As shown as Exhibit P  
15 2.  
16 A. Soffits. You can see those on  
17 soffits that are reflected on the plan, the  
18 soffits that's shown on the elevation. So you  
19 can't separate plans from elevations because  
20 you're just not going to get it, okay.  
21 Q. I'm just going to try to move us  
22 through this as quickly as possible. Other  
23 than the soffits in the dining room, is there  
24 anything else that you took and included in  
25 the dining room on A-2 included in Calderon's

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1 G. Hayden  
2 plans?  
3 A. Can you see that TV?  
4 Q. Is that on the north side of the  
5 dining room?  
6 A. That's the east side.  
7 Q. The east side of the dining room.  
8 Anything else in the dining room that you took  
9 from Mr. Calderon?  
10 A. It looks like it is the west  
11 side. North is up there.  
12 Q. Okay.  
13 A. You see the arrow? North is up.  
14 Q. So am I correct then that the  
15 TV --  
16 A. Is on the west side of the dining  
17 room.  
18 Q. Alright. You took the TV on the  
19 west side wall from Mr. Calderon's plan?  
20 A. No, I took the TV separate from  
21 the understanding that there should be a TV,  
22 and that was put in. And it appears on this  
23 drawing, yeah, I would say so, fine. You can  
24 do that. That's okay. You have to respect  
25 these documents otherwise what do you think

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1 G. Hayden  
2 you're doing? Whatever you see on this has to  
3 be on this or else he didn't do the job.  
4 Q. Whatever you saw on  
5 Mr. Calderon's plans had to be included on  
6 your plans, correct?  
7 MR. ISRAEL: Objection.  
8 A. Yes.  
9 Q. Anything else in the dining room  
10 that you took from Mr. Calderon's plans?  
11 A. Let's see. All right, that's  
12 fine, the dining room.  
13 Q. How about the living room? Just  
14 so the record is clear I'm asking what you  
15 included on your amended set of plans on the  
16 living room that you took from Mr. Calderon's  
17 drawings?  
18 MR. McKEE: Objection.  
19 A. There you have a reversal of the  
20 TV that's visible to you from the living  
21 section. And you also have panels, the walls  
22 are paneled. So you have panels on the walls  
23 that are made out of some leather and some  
24 not. He was very big on leather panels, don't  
25 ask me why. Panels are made in Italy, okay?

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1 G. Hayden  
2 And for me to say, okay, no problem, it is a  
3 problem. They have to fit. Made in Italy  
4 brought to the states, if they don't fit it is  
5 not a good idea. All right. So I had to make  
6 them fit essentially, right? And they do fit  
7 now, you should see them, they're all there.  
8 So what I took from this drawing  
9 is a concept of a paneled wall with leather  
10 panels. So how do you do that? You have to  
11 draw it up, right? How is the panel going to  
12 be fastened to a wall 5,000 miles away? What  
13 kind of wall, what kind of fastening devices  
14 behind the panel to bring it in or you order  
15 the panel fasteners in your shop, go to the  
16 apartment and then hang it, what would you  
17 like to do? That's my job.  
18 Q. Do your drawings indicate what  
19 kind of fasteners would be used to attach the  
20 panels to the wall?  
21 A. That's my job. Sure, right here  
22 it does.  
23 Q. Where does it do that?  
24 A. Right here.  
25 Q. So just so the record is clear

<p style="text-align: right;">Page 170</p> <p>1 G. Hayden</p> <p>2 you're on page A-5.</p> <p>3 A. A-5.</p> <p>4 Q. What kind of fasteners were going</p> <p>5 to be used?</p> <p>6 A. An inch and a half thick by</p> <p>7 four-inch cleat fastened to existing metal</p> <p>8 studs. You don't have to write it, it is</p> <p>9 right in front of you.</p> <p>10 Q. All right.</p> <p>11 A. If he didn't do that you would</p> <p>12 have broken panels everywhere.</p> <p>13 Q. And you're the one who decided</p> <p>14 what fasteners would be used, is that correct?</p> <p>15 A. I'm the only one that's going to</p> <p>16 put the panels for you on that wall.</p> <p>17 Q. Did Mr. Calderon give you any</p> <p>18 guidance as to what types of fasteners to use?</p> <p>19 A. I told you once, he sent the</p> <p>20 drawings, the guy is gone. You have no clue</p> <p>21 how to put them on the walls either, you think</p> <p>22 he would? I don't think so. They don't learn</p> <p>23 this stuff in school.</p> <p>24 Q. Okay. Turning your attention</p> <p>25 back to page A-2, is there anything else in</p>	<p style="text-align: right;">Page 172</p> <p>1 G. Hayden</p> <p>2 A. Nobody did. Nobody.</p> <p>3 Q. How did it turn out?</p> <p>4 A. Quite honestly, not so good, no,</p> <p>5 not so good. Well, it is a kitchen, it is</p> <p>6 okay. It's fine.</p> <p>7 Q. Were there any differences</p> <p>8 between your original set of plans and your</p> <p>9 amended set of plans in the kitchen?</p> <p>10 MR. ISRAEL: Objection.</p> <p>11 A. No.</p> <p>12 Q. Other than what you already</p> <p>13 testified here to today, is there anything in</p> <p>14 the library in your amended set of plans that</p> <p>15 you took from Mr. Calderon's drawings?</p> <p>16 MR. McKEE: Objection to form.</p> <p>17 MR. ISRAEL: Objection.</p> <p>18 A. Same things. Obviously you know</p> <p>19 about the vaulted ceiling by now, right?</p> <p>20 Q. Correct.</p> <p>21 A. The ceiling, the panels on the</p> <p>22 ceiling, and I guess that's it really. The</p> <p>23 panels on the ceiling, there are certain</p> <p>24 soffits along the perimeter of the library,</p> <p>25 that is. Whatever he's got in this elevation</p>
<p style="text-align: right;">Page 171</p> <p>1 G. Hayden</p> <p>2 the living room that you took from</p> <p>3 Mr. Calderon's drawings?</p> <p>4 MR. ISRAEL: Objection go ahead</p> <p>5 and answer.</p> <p>6 A. Soffits, lighting, panels,</p> <p>7 overall look of the living room. I mean, this</p> <p>8 is what you want. You want the living room</p> <p>9 not to be plain and simple, you want something</p> <p>10 a little fussy in there, so here it is. The</p> <p>11 fussier the better.</p> <p>12 Q. And how about the kitchen, did</p> <p>13 you take anything from the kitchen from</p> <p>14 Mr. Calderon's drawings?</p> <p>15 MR. ISRAEL: Objection.</p> <p>16 A. He did not, Vladimir did not want</p> <p>17 the kitchen touched, big mistake.</p> <p>18 Q. So there was no renovation done</p> <p>19 to the kitchen?</p> <p>20 A. Before it ended, he changed his</p> <p>21 mind. Can we change the kitchen? Who is we</p> <p>22 now? You want to change the kitchen, go</p> <p>23 ahead.</p> <p>24 Q. And who designed the renovation</p> <p>25 of the kitchen?</p>	<p style="text-align: right;">Page 173</p> <p>1 G. Hayden</p> <p>2 here which is your library elevations --</p> <p>3 here's the library. Where is the library</p> <p>4 plan? You're not showing the plan of the</p> <p>5 library that he supposedly designed.</p> <p>6 This is the master bedroom, you</p> <p>7 can tell we never did this, anyway. You're</p> <p>8 not showing the plan of the library.</p> <p>9 MR. McKEE: The witness is</p> <p>10 referring to the Plaintiff's Exhibit 2.</p> <p>11 He's reviewing it to see what is in</p> <p>12 there that may have originated with</p> <p>13 Calderon.</p> <p>14 MR. MANDEL: Off the record.</p> <p>15 (Discussion off the record.)</p> <p>16 Q. Could you remind me which room we</p> <p>17 were in?</p> <p>18 MR. McKEE: The library.</p> <p>19 Q. Other than what you testified to</p> <p>20 here today, did you take anything from</p> <p>21 Mr. Calderon's drawings included in your</p> <p>22 amended plans for the library.</p> <p>23 MR. McKEE: Objection.</p> <p>24 A. Same, the ceiling plan which is</p> <p>25 vaulted. You should look at my plan, not his</p>

<p style="text-align: right;">Page 174</p> <p>1 G. Hayden</p> <p>2 plans. You can see that these little squares,</p> <p>3 and I am pointing again at the squares within</p> <p>4 the soffit are recessed high. They're</p> <p>5 recessed lights which I put in for Pepe who</p> <p>6 obviously does not have the plan or reflected</p> <p>7 ceiling plan of the library to begin with.</p> <p>8 The switches I put in. Essentially what I</p> <p>9 really did was the whole library, with the</p> <p>10 exception of that stupid ceiling that I hated</p> <p>11 anyway, is what he got from me. That's it.</p> <p>12 He wanted that vaulted ceiling, he got it.</p> <p>13 But the soffits, the lighting,</p> <p>14 the configurations the whole thing, the light</p> <p>15 fixtures, the switches and all that's on my</p> <p>16 drawings, not his, same thing here.</p> <p>17 MR. MANDEL: We can go off the</p> <p>18 record for a second?</p> <p>19 (Discussion off the record.)</p> <p>20 MR. McKEE: You can go back to</p> <p>21 the record and complete your thought</p> <p>22 that you just started before we went</p> <p>23 off. Just before we went off the</p> <p>24 record you were talking about the high</p> <p>25 hats and the soffits in the library,</p>	<p style="text-align: right;">Page 176</p> <p>1 G. Hayden</p> <p>2 should install the soffits or the lights. Are</p> <p>3 you with me so far?</p> <p>4 Q. I'm following 100 percent.</p> <p>5 A. Okay. So those little so called</p> <p>6 soffit details, that is suspended from a</p> <p>7 concrete slab, are the details that I put in</p> <p>8 on drawing A-3, and filed it with the</p> <p>9 Buildings Department and gave it to the</p> <p>10 contractor so, number 1, the contractor can</p> <p>11 tell clearly how many high hats he has in the</p> <p>12 dining room, how many high hats he has in the</p> <p>13 library, how many high hats he's got in the</p> <p>14 living room, and purchase it accordingly,</p> <p>15 right?</p> <p>16 The other thing the contractor</p> <p>17 can tell clearly is how the soffits will be</p> <p>18 constructed suspension-wise from a concrete</p> <p>19 slab, what channels to use, what capacity of</p> <p>20 channels, what kind of channels, what type of</p> <p>21 sheetrock, and this and that and the other</p> <p>22 thing, what type of light fixtures and where</p> <p>23 the light fixtures actually go.</p> <p>24 If you look at section one which</p> <p>25 says, cut through one side of a soffit, that's</p>
<p style="text-align: right;">Page 175</p> <p>1 G. Hayden</p> <p>2 and then you continued to point at some</p> <p>3 things off the record. Why don't you</p> <p>4 put those on the record now?</p> <p>5 THE WITNESS: Yeah.</p> <p>6 Q. Go right ahead.</p> <p>7 A. What I was trying to suggest is</p> <p>8 the fact that those amended documents that</p> <p>9 reflect the final analysis of the design</p> <p>10 concept were completed by me, they were not</p> <p>11 completed by the designer. In fact, his</p> <p>12 sketchy little soffits ended up to be defined</p> <p>13 soffits, scaled soffits with lights</p> <p>14 throughout, you see all these little boxes?</p> <p>15 Excuse me, hello.</p> <p>16 Q. I do.</p> <p>17 A. You see all these little boxes</p> <p>18 along the soffits?</p> <p>19 Q. I do.</p> <p>20 A. These are spaced center line to</p> <p>21 center line equally and they're high hats.</p> <p>22 They're light fixtures in soffits. I'm going</p> <p>23 to take it to a section on my plan marked</p> <p>24 section one and marked section two that</p> <p>25 differentiate between the detail as how you</p>	<p style="text-align: right;">Page 177</p> <p>1 G. Hayden</p> <p>2 section one. And if you look at section two,</p> <p>3 that's cut through a different kind of</p> <p>4 configuration, essentially would have one</p> <p>5 soffit next to the other. One has lights, two</p> <p>6 have lights, and one has light and one</p> <p>7 doesn't. So the sections are not exactly</p> <p>8 identical. And on the basis of that it sets</p> <p>9 you away from the face of the wall by a</p> <p>10 certain distance, and sets you down by another</p> <p>11 distance. So that gives you this, it will</p> <p>12 give you this or that, depending on which part</p> <p>13 you're looking at.</p> <p>14 Essentially he has, this</p> <p>15 contractor, a reflective ceiling plan with the</p> <p>16 soffits that were sketched up by a designer</p> <p>17 and sent to me to make working drawings out</p> <p>18 of. And that's what we did. Because those</p> <p>19 sketches made the work in drawings, made those</p> <p>20 in the construction documents. And that's the</p> <p>21 end of that.</p> <p>22 So what I took out of his</p> <p>23 drawings, to answer your question, is the</p> <p>24 concept of these lousy soffits, essentially.</p> <p>25 And then as far as the panels are concerned,</p>

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<p style="text-align: right;">Page 178</p> <p>1 G. Hayden</p> <p>2 which show on the elevations, those panels</p> <p>3 were made in Italy anyway. They're not made</p> <p>4 in the United States and I didn't elaborate on</p> <p>5 the type of panels and discuss that with the</p> <p>6 client because I was not in agreement with</p> <p>7 those panels to begin with.</p> <p>8 Soffits, yes, I thought was</p> <p>9 pretty smart. But panels is the client's say</p> <p>10 so. You have to put those in the plans just</p> <p>11 for the Buildings Department.</p> <p>12 Q. Understood. Anything in bedroom</p> <p>13 number 2 on your plans that you took from</p> <p>14 Mr. Calderon's drawings, it is J there on A-2.</p> <p>15 A. J is a junction box on the</p> <p>16 ceiling.</p> <p>17 Q. I'm sorry.</p> <p>18 A. From his drawing?</p> <p>19 Q. From Mr. Calderon's drawings.</p> <p>20 A. Not really. I returned the</p> <p>21 closet as we discussed earlier to that bedroom</p> <p>22 number 2 on my own good will because I found</p> <p>23 that this kid is not going to have enough</p> <p>24 closets.</p> <p>25 Q. And anything that you took from</p>	<p style="text-align: right;">Page 180</p> <p>1 G. Hayden</p> <p>2 MR. McKEE: Entitled?</p> <p>3 MR. MANDEL: Entitled Master</p> <p>4 Bedroom General Plan and Master Bedroom</p> <p>5 Ceiling Plan.</p> <p>6 A. There is no ceiling plan.</p> <p>7 Q. Are the closets you have on your</p> <p>8 amended plan in the master bedroom the same as</p> <p>9 the closets that were in Mr. Calderon's plan</p> <p>10 for the closets?</p> <p>11 MR. McKEE: Objection.</p> <p>12 A. Yeah, let me see. Yeah, they</p> <p>13 are, as a matter of fact. That's a good</p> <p>14 point.</p> <p>15 Q. You took Mr. Calderon's master</p> <p>16 bedroom closets and included it on your</p> <p>17 amended plan?</p> <p>18 MR. ISRAEL: Objection.</p> <p>19 MR. McKEE: Objection.</p> <p>20 A. No, I did not do that. The point</p> <p>21 that this drawing, that it does have, as I</p> <p>22 said, different number of doors as related to</p> <p>23 the initial drawings that I did for that same</p> <p>24 closets. Now, if the client decides on</p> <p>25 smaller doors as opposed to bigger doors, no</p>
<p style="text-align: right;">Page 179</p> <p>1 G. Hayden</p> <p>2 Mr. Calderon's designs, and included in your</p> <p>3 master bedroom in your amended plans?</p> <p>4 A. Yeah, he got those soffits. Do</p> <p>5 you see those soffits? That's where the bed</p> <p>6 sits this way.</p> <p>7 Q. We talked about the closets.</p> <p>8 A. And I personally had to do those</p> <p>9 high hats, those high hats did not come from</p> <p>10 him. You're not asking me that.</p> <p>11 Q. So we move things along, just</p> <p>12 which things did you take?</p> <p>13 A. Soffits.</p> <p>14 Q. Soffits and the closets, correct?</p> <p>15 A. No closets.</p> <p>16 MR. McKEE: Objection.</p> <p>17 A. Closets did not come from him.</p> <p>18 Just soffits. Soffits in the bedroom, the</p> <p>19 master bedroom area, not the whole thing, the</p> <p>20 bedroom area, these soffits here, this just</p> <p>21 in, not that.</p> <p>22 Q. I will turn your attention to</p> <p>23 Plaintiff's Exhibit 2 -- do you have</p> <p>24 Plaintiff's Exhibit 2 there -- to the fifth</p> <p>25 page.</p>	<p style="text-align: right;">Page 181</p> <p>1 G. Hayden</p> <p>2 objection to that. Nonetheless, I just told</p> <p>3 you also that I made it 5 feet instead of</p> <p>4 4 feet. I mean, I made it wider for that</p> <p>5 purpose. On the other side, this bedroom, the</p> <p>6 room didn't really change from the initial</p> <p>7 design at all, it is really the same, almost</p> <p>8 the same. The client actually did that, the</p> <p>9 contractor, believe it or not, did that, to</p> <p>10 move the doors over. It wasn't him. But any</p> <p>11 ways it is neither here or there.</p> <p>12 Q. I would just like you to compare</p> <p>13 Mr. Calderon's design of the master bedroom</p> <p>14 closets with your amended plan design for the</p> <p>15 master bedroom closets, and I would ask you,</p> <p>16 are there any differences on the design of</p> <p>17 those two different sets of closets?</p> <p>18 A. You can see the bathroom number 1</p> <p>19 in this drawing has the soffit on bathroom</p> <p>20 number 1 on my amended drawing.</p> <p>21 Q. Are we just talking about the</p> <p>22 master bedroom closets right now?</p> <p>23 A. You just want to talk about the</p> <p>24 closets.</p> <p>25 Q. I'm just asking, are there any</p>

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<p style="text-align: right;">Page 182</p> <p>1 G. Hayden</p> <p>2 differences between the design that</p> <p>3 Mr. Calderon has for the master bedroom</p> <p>4 closets and the design that you have for those</p> <p>5 closets on your amended plan?</p> <p>6 A. No, not that I'm seeing at all,</p> <p>7 no.</p> <p>8 Q. Turning your attention to</p> <p>9 Plaintiff's Exhibit 2 again, which I believe</p> <p>10 your left hand was on a second ago, does</p> <p>11 Mr. Calderon have any lighting plans on that</p> <p>12 piece of paper?</p> <p>13 A. This one does.</p> <p>14 Q. Okay. Did you use that lighting</p> <p>15 plan in the master bedroom?</p> <p>16 A. As a matter of fact, yes, I did.</p> <p>17 Let's see. 1, 2, 3 -- 1, 2, 3, 4, 5, 6, 7, 8,</p> <p>18 9. He did put some lights into soffits, yes,</p> <p>19 yeah.</p> <p>20 Q. Are there any differences between</p> <p>21 Mr. Calderon's design for the master bedroom</p> <p>22 and your amended plan design for the master</p> <p>23 bedroom?</p> <p>24 MR. ISRAEL: Objection, you can</p> <p>25 answer.</p>	<p style="text-align: right;">Page 184</p> <p>1 G. Hayden</p> <p>2 answering the question based upon a</p> <p>3 complete question, when you haven't</p> <p>4 heard the whole thing yet. So why</p> <p>5 don't you let him finish asking his</p> <p>6 question and then respond.</p> <p>7 MR. MANDEL: I would also say</p> <p>8 you're making the court reporter's life</p> <p>9 much more difficult. Even if you don't</p> <p>10 like me or my questions, if you can,</p> <p>11 just to be nice to the court reporter,</p> <p>12 just wait until I am done, and I would</p> <p>13 appreciate that.</p> <p>14 A. You made an assumption that is</p> <p>15 not correct, but anyway you can go ahead.</p> <p>16 Q. We're turning you to Defendant's</p> <p>17 Exhibit 8, and I would like to turn your</p> <p>18 attention to the elevations. Is A-4 the first</p> <p>19 elevation on Plaintiff's Exhibit 8?</p> <p>20 A. What do you mean first? This is</p> <p>21 the amended plan, that's second.</p> <p>22 Q. Correct. This document is --</p> <p>23 A. Amended.</p> <p>24 Q. -- Defendant's Exhibit 8, and it</p> <p>25 is your amended plans, correct?</p>
<p style="text-align: right;">Page 183</p> <p>1 G. Hayden</p> <p>2 A. Not that I can see. Just</p> <p>3 remember one thing, I'm supposed to do this.</p> <p>4 I don't know if you got the story.</p> <p>5 Q. You made that very clear. You're</p> <p>6 supposed to take the design that Mr. Calderon</p> <p>7 provides you.</p> <p>8 A. Otherwise why would I need them.</p> <p>9 Q. Otherwise why did Mr. Voronchenko</p> <p>10 spend all that money?</p> <p>11 A. It's my problem, not his anymore.</p> <p>12 It is my problem. This was what was given to</p> <p>13 you. If you have a problem with it, bring it</p> <p>14 up.</p> <p>15 Q. Did you have any problems --</p> <p>16 A. No, no.</p> <p>17 Q. -- with any of Mr. Calderon's</p> <p>18 designs?</p> <p>19 A. No, not really.</p> <p>20 MR. McKEE: Objection.</p> <p>21 MR. ISRAEL: Objection. You're</p> <p>22 signing onto an answer where you didn't</p> <p>23 hear him ask the question again</p> <p>24 completely. In the reading of this</p> <p>25 transcript it looks as though you're</p>	<p style="text-align: right;">Page 185</p> <p>1 G. Hayden</p> <p>2 A. Yeah.</p> <p>3 Q. And is this the first page in</p> <p>4 your amended plans that has elevations on it?</p> <p>5 A. Yeah, A-4 starts the elevations,</p> <p>6 right.</p> <p>7 Q. Were you required to provide the</p> <p>8 elevations contained on page A-4 in order to</p> <p>9 obtain Department of Buildings approval?</p> <p>10 A. Why do you think the Department</p> <p>11 of Buildings is the builder for the job? The</p> <p>12 Department of Buildings does not build this,</p> <p>13 contractors do. Without this can you tell me</p> <p>14 what the hell to do? You tell me.</p> <p>15 Q. I'm not an expert on construction</p> <p>16 or architecture, as you know, so I was asking</p> <p>17 that question --</p> <p>18 A. The whole problem is the</p> <p>19 Buildings Department has nothing to do with</p> <p>20 this. Contractors do, architects do, and</p> <p>21 everybody else does except for the Buildings</p> <p>22 Department. It gives you a permit that you</p> <p>23 can get any time you want.</p> <p>24 As to what you indicate in your</p> <p>25 drawings to the Buildings Department, put that</p>



<p style="text-align: right;">Page 186</p> <p>1 G. Hayden  2 on the record, is an option that you would  3 take. Shall I do this, shall I not do that?  4 Is it a mechanical, fire  5 stopping, you need to do that. Fabrication,  6 leather, fireproof building, be careful if it  7 goes into flame and it is not on the record,  8 there is flame in living room that's not  9 documented.  10 So my opinion is, look,  11 Mr. Whoever-you-are, you want leather to that  12 degree in the living room on a fabric on a  13 wall? Make sure it spreads -- the  14 flame-spread rating is appropriate. I would  15 put that on the record for you. They have  16 that. The building management doesn't object  17 to it, the building board does not raise the  18 objection, it goes right through. But  19 everybody is going to be aware of its  20 existence.  21 The contractor has to install  22 these panels, is that right? Well does he  23 know where they are going or not? Does the  24 contractor know where the panels are going?  25 Maybe he's going to refer to his sketch from</p>	<p style="text-align: right;">Page 188</p> <p>1 G. Hayden  2 put the panels together on the walls properly,  3 that's my job. Okay.  4 Am I happy with those panels?  5 Don't ask me, I don't know. Okay.  6 Q. We got a lot to go through before  7 we get done here so I want to move through it  8 as quickly as possible. So I ask if you can  9 just try to focus and answer the exact  10 question I'm asking you.  11 So I will ask you, did you take  12 the elevations on page A-4 of Defendants'  13 Exhibit 8 directly from Mr. Calderon's designs  14 which are included in Plaintiff's Exhibit 2?  15 MR. ISRAEL: Objection.  16 MR. McKEE: Objection to form.  17 A. You want a yes or a no from now  18 on, right?  19 Q. This question.  20 A. Yes. I said, yes. From now on  21 you're going to get a yes or no.  22 Q. Are there any differences what so  23 ever between Mr. Calderon's design on  24 Plaintiff's Exhibit 2 and your amended plan on  25 page A-4 of Defendant's Exhibit 8?</p>
<p style="text-align: right;">Page 187</p> <p>1 G. Hayden  2 the horrible drawings that I got from Pepe.  3 Maybe he wants to do that? Do you think he'd  4 want to do that? I don't think so. He would  5 not accept the panels without this document.  6 So that's why these elevations are on the  7 record. That's what we get paid to do.  8 That's my job.  9 Q. Am I correct that you took these  10 elevations on A-4 on Defendant's Exhibit 8  11 directly from Mr. Calderon's design?  12 MR. ISRAEL: 'Objection.  13 A. In concept and in theory, and in  14 reading AutoCAD drawings the answer is, yes.  15 Because look, you want me to redesign all  16 those panels for you and not look at his  17 drawings? So why the hell did you send me  18 that stuff for then, okay? I can redesign the  19 panels, okay? Are you listening.  20 Q. I'm listening to every word. You  21 can redesign the panels.  22 A. Right. But I wasn't hired to  23 redesign the panels, do you got that? The  24 panels are designed by Mr. X Y and Z. I don't  25 care who designed the panels. My job is to</p>	<p style="text-align: right;">Page 189</p> <p>1 G. Hayden  2 MR. ISRAEL: Objection.  3 A. Well unless I'm going to go  4 through the whole process one more time and  5 analyze it step by step, word by word the  6 answer there shouldn't be okay, will be.  7 Q. Sitting here today you don't see  8 any differences between those two plans?  9 MR. ISRAEL: Objection.  10 MR. McKEE: Objection. You need  11 to look, you need to look.  12 A. Generally, you know if he does  13 say leather panels, it doesn't say suede. It  14 could have, but if it did say suede, and it is  15 leather, guess what?  16 Q. Again focus on the exact  17 question.  18 A. You don't understand what you're  19 asking either. This is very serious what  20 you're asking for.  21 MR. ISRAEL: Hold on one second  22 off the records.  23 (Discussion off the record.)  24 A. So you want to know if they are  25 exactly the same or not.</p>

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<p style="text-align: right;">Page 190</p> <p>1 G. Hayden</p> <p>2 Q. Let me ask the question again.</p> <p>3 Are the designs on your amended</p> <p>4 plans page A-4 exactly the same as</p> <p>5 Mr. Calderon's designs for those plans which</p> <p>6 are contained in Plaintiff's Exhibit 2?</p> <p>7 A. Exactly the same, I would say,</p> <p>8 not really but within reason are they close</p> <p>9 enough? The answer is yes, would be</p> <p>10 absolutely, yes. Is the material used the</p> <p>11 same? Are the specs on the Medallion used the</p> <p>12 same? The answer to all of that would be,</p> <p>13 yes.</p> <p>14 But are they graphically exactly</p> <p>15 the same? No, can't be. I drew this on my</p> <p>16 own; did not copy drawings or did not trace</p> <p>17 these drawings. These are drawn by us in</p> <p>18 representation of his design concept. But</p> <p>19 they cannot be line by line, word by word his</p> <p>20 because they are not. You see what I'm</p> <p>21 showing or not really?</p> <p>22 These drawings were not -- are</p> <p>23 not the same, they're not the same body as</p> <p>24 those. These are generated from my computer</p> <p>25 by us based on looking at those.</p>	<p style="text-align: right;">Page 192</p> <p>1 G. Hayden</p> <p>2 A. Personally I don't really think</p> <p>3 we did. We drew every line.</p> <p>4 Q. Is it possible that you cut and</p> <p>5 pasted them?</p> <p>6 MR. McKEE: Objection.</p> <p>7 A. I can look. If you want, I can</p> <p>8 give you his drawings and my drawings you can</p> <p>9 see the difference. Line wise, description of</p> <p>10 material, the answer is probably not. You can</p> <p>11 have probably used the base elevation from his</p> <p>12 drawings, but the specs on that come from you.</p> <p>13 You can use the base drawing</p> <p>14 possibility, yes. You're supposed to use</p> <p>15 them. I mean they're not forbidden for you to</p> <p>16 use. They're yours. They were given to you</p> <p>17 for that purpose only. But if you didn't</p> <p>18 really modify those to reflect intent of an</p> <p>19 architectural point of view, then they may</p> <p>20 have all used his. You didn't need me</p> <p>21 anymore. They use his at this point so</p> <p>22 they're not the same. They are not the same.</p> <p>23 But were they ever used, to the</p> <p>24 extent that allows for me to produce these</p> <p>25 documents? The answer is absolutely. Giving</p>
<p style="text-align: right;">Page 191</p> <p>1 G. Hayden</p> <p>2 Q. What software did you use the</p> <p>3 create these plans?</p> <p>4 A. AutoCAD.</p> <p>5 Q. And am I correct that</p> <p>6 Mr. Calderon provided you with AutoCAD?</p> <p>7 A. Right, right. You can't use</p> <p>8 those drawings without making the changes that</p> <p>9 you want to reflect your architectural set on</p> <p>10 the same set of drawings. You have to go on</p> <p>11 your set of drawings.</p> <p>12 Q. Did you cut and paste any of the</p> <p>13 AutoCAD drawings that Mr. Calderon provided to</p> <p>14 you?</p> <p>15 MR. McKEE: Objection to form.</p> <p>16 A. I don't think so.</p> <p>17 Q. Do you know one way or the other</p> <p>18 whether you cut and pasted them?</p> <p>19 MR. McKEE: Objection to form.</p> <p>20 A. Not really. And if I did do</p> <p>21 that, these AutoCAD drawings are mine, given</p> <p>22 to me to use them, not to look at them.</p> <p>23 Q. Is it possible you cut and pasted</p> <p>24 Mr. Calderon's AutoCAD drawings?</p> <p>25 MR. McKEE: Objection.</p>	<p style="text-align: right;">Page 193</p> <p>1 G. Hayden</p> <p>2 me AutoCAD drawings that I'm not going to use</p> <p>3 them at all is silly.</p> <p>4 Q. So was your goal when taking a</p> <p>5 designer's designs to use the AutoCAD drawings</p> <p>6 as much as you can?</p> <p>7 A. If I could, yes.</p> <p>8 Q. And sitting here today, looking</p> <p>9 at Mr. Calderon's drawings and looking at your</p> <p>10 drawings on A-4, can you notice any</p> <p>11 differences between the two sets of drawings?</p> <p>12 A. Well, the hatching is different</p> <p>13 actually.</p> <p>14 Q. Point to which hatching you're</p> <p>15 referring to.</p> <p>16 A. There's no hatching here.</p> <p>17 MR. McKEE: Referring to the</p> <p>18 master bedroom elevations.</p> <p>19 A. Hatching is different. You can</p> <p>20 tell that this is not -- the thickness of the</p> <p>21 wall type is different, so you can tell it is</p> <p>22 not drawn, it is not taken off his drawings</p> <p>23 but drawn independently.</p> <p>24 Q. When you say the thickness of the</p> <p>25 wall type, what are you referring to exactly?</p>

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